

ARTICLE 5 SUPPLEMENTAL USE REGULATIONS

Summary: This Section establishes uniform criteria for particular uses which are permitted within one or more of the zoning districts established in Article 4. If the use is listed as a permitted use in Article 4, Table 4.6-1, the additional criteria set forth in this Article must be satisfied before an application for development approval will be approved or issued. If the use is listed as a conditional use in Article 4, Table 4.6-1, the additional criteria set forth in this Article must be satisfied before an application for Conditional Use Permit will be approved. These criteria are designed to ensure that the listed uses are compatible with the other permitted uses in the zoning district and to implement the policies of the Comprehensive Plan.

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5.1. GENERAL PROVISIONS

5.1.1. APPLICABILITY.

The provisions of Article 5 are supplemental to the general provisions of the other Articles of the Unified Development Ordinances. All Uses and Structures shall comply with the all other applicable provisions of this Ordinance in addition to the provisions of this Article.

5.1.2. CONFLICT WITH OTHER REGULATIONS.

If there is a conflict between standards of Article 5 and any other requirements of this Ordinance, the standards of this Article 5 shall control, except as set forth in section 5.1.3, below.

5.1.3. RELATIONSHIP TO USE TABLE.

The zoning district in which a particular use is permitted is controlled by Table 4.6-1, and in the event of any inconsistency between the provisions of this Article 5 and the Use Matrix (Table 4.6-1), the provisions of the Use Matrix shall control.

5.2. ACCESSORY USES AND STRUCTURES

5.2.1. PERMITTED ACCESSORY USES.

5.2.1.3. The uses listed in Column A, below, shall be permitted by right (unless noted otherwise) in any of the zoning districts set forth in Column B, below:

(A) Accessory Use	(B) Zoning Districts
Accessory Dwellings (subject to the provision of § 5.3)	see Table 4.6-1 (see Article 4)
Garages or Carports (noncommercial)	All Zoning Districts.
Greenhouses (noncommercial)	All Residential Zoning Districts.
Home Occupations (subject to § 5.12)	All Residential Zoning Districts.
Off-Street Parking and Driveways	All districts.
Wireless Telecommunications Antennas or Tower (subject to § 5.21)	All Zoning Districts
Other Telecommunication Antennas or Tower	see Table 4.6-1 (see Article 4)
Satellite Dishes	All Zoning Districts
Signs (see Article 12)	All districts.
Storage Buildings (residential)	All districts.
Swimming Pools (subject to the provisions of § 5.2.2)	All ⁽¹⁾ Zoning Districts.
Stables/Private (see § 5.4)	AG, RE, RL.
Tennis Courts (subject to the provisions of this Section)	All Zoning Districts.
Any other Building or Use customarily incidental to the permitted Primary Use or Building (subject to the location standards of this § 5.2)	All Zoning Districts.

5.2.1.4. ESTABLISHMENT. Accessory buildings or uses shall not be constructed or established on a lot until construction of the principal building has commenced or the primary use is established, except as provided in section 5.2.1.5. Accessory buildings shall not be used for dwelling purposes, except as provided in section 5.3.

5.2.1.5. LOCATION.

5.2.1.5.1. Accessory structures shall be required meet the setback standards for accessory structures as set forth in Table 4.7-1 *Dimensional and Density Standards*. Accessory structures may be located within a setback yard for principal structures and shall be regulated in accordance with the standards below. No accessory structure shall be located less than 36 inches from the

exterior wall of the principal structure. Structures that are located closer than 36 inches shall be considered as additions to the principal structure and shall conform to all applicable setbacks.

5.2.1.5.2. For residential lots not exceeding two (2) acres, detached accessory buildings shall not be located in the front yard. Detached accessory buildings may be built in the required rear yard but such accessory buildings shall not occupy more than thirty (30%) percent of the rear yard and shall not be closer than five feet to any side or rear lot line or setback line.

5.2.1.5.3. For residential lots exceeding two (2) acres, detached accessory buildings may be located in the front yard but not closer than seventy-five feet (75') from the front property line/street right-of-way. Detached accessory

buildings may be closer than the distance specified above if they are not visible from a public street.

5.2.1.5.4. The location of permitted non-residential accessory structures shall be governed by the same dimensional regulations as set forth for the principal use structure(s).

5.2.1.5.5. Accessory buildings on double frontage lots shall not be closer to either street than the required front yard setback.

5.2.1.6. HEIGHT. Accessory buildings shall not exceed:

5.2.1.6.1. the standard height regulations of the zoning district as set forth in Table 4.7-1 where accessory structure is located within the buildable lot area;

5.2.1.6.2. shall not exceed fifteen (15) feet in height, where accessory structure is located within a principal structure setback yard.

5.2.2. SWIMMING POOLS.

A private swimming pool along with incidental installations, such as pumps and filters, is permitted in any⁽¹⁾ zoning district provided:

5.2.2.2⁽¹⁾ If any pool contains at least four hundred fifty (450) square feet of water surface area or has a depth of thirty-six (36) inches or greater at its shallowest point, the pool shall be enclosed from adjoining lots by the Principal Building, an Accessory Building, a solid wall, or a protective fence of not less than four (4) feet in height. In the alternative, a pool cover shall be provided and shall be installed whenever the pool is not in use.

5.2.2.3. The swimming pool shall be set back from all lot lines a distance of not less than five (5) feet.

5.2.2.4. (1)Private swimming pools located in non-residential zoning districts shall be screened from view of adjacent properties.

5.2.3. LIGHTING.

Exterior lighting for accessory uses and/or structures shall be placed so as to not direct or reflect light upon adjoining land.

5.2.4. EXEMPTIONS TO ACCESSORY USE AND STRUCTURE REGULATIONS.

The following uses/structures shall be exempt from the provisions of this § 5.2:

5.2.4.3. Fencing and walls;

5.2.4.4. mailboxes;

5.2.4.5. plant materials;

5.2.4.6. any structure or improvement, once installed, is at grade or less than 1 foot above grade.

5.3. ACCESSORY DWELLINGS

5.3.1. ZONING DISTRICTS.

Accessory Dwellings and Accessory Apartments are conditionally permitted in those zoning districts where such use is permitted in accordance with Table 4.6-1 (see Article 4) ⁽¹⁾and as set forth below.

5.3.2. HOUSING STANDARDS.

Accessory Dwellings must comply with all applicable local, State and Federal housing codes.

5.3.3. NUMBER.

Only one (1) Accessory Dwelling or Accessory Apartment shall be permitted per lot.

5.3.4. ⁽¹⁾STANDARDS FOR ACCESSORY DWELLINGS IN NON-RESIDENTIAL ZONING DISTRICTS (CC, C-1, C-2, CD, I-1, AND I-2)

5.3.4.1. An accessory residential single-family dwelling shall be allowed in certain non-residential zoning districts provided the caretaker quarters are located on the same premises as the business where one residing family member is employed.

5.3.4.2. DIMENSIONAL AND DESIGN REQUIREMENTS

The Accessory Dwelling shall conform to all dimensional and design requirements as established for the principal use within the zoning district within which it is located. The accessory dwelling shall be integrated into the required site plan.

5.3.4.3. COMPATIBILITY

The exterior of the Accessory Dwelling shall be compatible with the principal use in terms of architectural materials and appearance. Manufactured homes shall not be allowed as caretaker residences.

5.3.5. STANDARDS FOR ACCESSORY DWELLINGS IN RESIDENTIAL ZONING DISTRICTS (AG, RE, RL, RM-1, RM-2, RV, AND RC)

5.3.5.1. SIZE OF UNIT.

The Accessory Dwelling or Accessory Apartment shall not exceed fifty (50) percent of the square footage of the livable area of the primary structure or 1,100 square foot of gross floor area, whichever is less.

5.3.5.2. PLACEMENT OF THE ACCESSORY DWELLING ON THE LOT.

An Accessory Dwelling shall be sited to the rear of the principal building. In the AG or RE zoning districts, the Accessory Dwelling unit may be sited to the side of the principal building only if the lot exceeds ten (10) acres in size.

5.3.5.3. SETBACKS.

The Accessory Dwelling shall meet all setback requirements as established for principal uses within the zoning district within which it is located.

5.3.5.4. COMPATIBILITY.

The exterior of the Accessory Dwelling shall be compatible with the principal residence in terms of color, siding, roof pitch, window detailing, roofing materials, and foundation or skirting appearance. Manufactured homes shall not be pulled up to or attached to a primary residence and considered an Accessory Apartment or Accessory Dwelling Unit. Manufactured homes, as a principal or accessory dwelling units, shall be permitted only in the MH Manufactured Home Overlay District.

5.3.5.5. PARKING.

Adequate off-street parking shall be provided for any vehicles owned by occupants of the Accessory Dwelling or Accessory Apartment.

5.3.5.6. UTILITIES.

Where there is no public sanitary sewer service to the Accessory Dwelling unit, County Health Department shall approve sanitary sewer services provided to such Accessory Dwelling unit prior to its construction.

5.3.5.7. OWNER-OCCUPIED RESTRICTION

Accessory dwelling units shall only be allowed on parcels that contain owner-occupied single-family dwelling units that are allowed as a principal permitted use.

5.4. ANIMAL REGULATIONS

5.4.1. PURPOSE AND SCOPE.

The purpose of this Section is to provide rules and regulations for the keeping of agricultural animals or other livestock so that these animals do not become a nuisance, hazard, and/or health problem to the adjoining neighbors and the general public. The provisions of this section shall not apply to dogs, cats, or other similar household pets.

5.4.2. USE REGULATIONS.

The use of land for the keeping of agricultural animals or other livestock shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.4.3. AGRICULTURAL ANIMALS.

5.4.3.3. The provisions of this Section 5.4 shall not apply to the AG Agriculture District.

5.4.3.4. No livestock shall be kept, maintained or stabled within any Residential Zoning District on any lot not exceeding two (2) acres.

5.4.3.5. On parcels of two (2) acres or more and as set forth in Table 4.6-1 (see Article 4), certain livestock shall be permitted subject to the following provisions:

5.4.3.6. All livestock shall be fenced so that they are no closer than one-hundred fifty feet (150') from a dwelling unit. The provisions of this section shall not apply if a dwelling unit is constructed so as to encroach upon an existing livestock use, except that such a livestock use may no longer expand towards a newly established residential use.

5.4.3.7. Not more than one (1) Animal Unit shall be kept, maintained or stabled per six thousand (6,000) square feet of land.

5.5. ANIMAL BOARDING/STORAGE USES

5.5.1. APPLICABILITY.

The provisions of this Section shall apply to any use that includes the commercial boarding or storage of live animals, including but not limited to veterinarian hospitals and kennels. Animal Boarding/Storage Uses shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.5.2. CRITERIA.

5.5.2.3. Facilities for the boarding of all dogs and other household pets shall conform to the following:

5.5.2.3.1. Any building housing animals shall be located a minimum of 150 feet from any residentially zoned or developed property.

5.5.2.3.2. Animal wastes shall not be stored any closer than fifty (50) feet from any property line or surface waters.

5.5.2.4. Areas used for grazing, exercising or training of said animals shall be securely fenced to prevent the animals from straying, or a suitable restraint shall be provided to prevent straying.

5.5.2.5. Any kennel which is not wholly enclosed within a building shall be enclosed by a security fence at least six (6) feet in height.

5.6. MOTOR VEHICLE SALES OR RENTAL

5.6.1. APPLICABILITY.

The provisions of this Section shall apply to any Automobile Sales or Rental establishment as allowed by Table 4.6-1 (see Article 4).

off-street parking for employees and patrons shall be required to conform to the design provisions of Article 8.

5.6.2. ACCESSORY USES.

In addition to the accessory uses set forth in § 5.2.1 of this Article, the following accessory uses are permitted for any Automobile Sales Establishment:

5.6.2.3. Sales, office, parts, service, storage, and body shop facilities accessory to new Automobile Sales Establishments.

5.6.2.4. Storage, body shop, washing, fueling, painting facilities, and air quality certification.

5.6.2.5. Temporary automobile sales offices and display areas (interior or exterior). Such uses shall be allowed for a period not to exceed two years from the date approved by the City. The period may be extended for up to an additional one year if the permanent facility is under construction prior to expiration of the initial two-year period but not yet complete.

5.6.3. DISPLAY AREA.

5.6.3.3. All outdoor vehicle display areas shall be paved. Notwithstanding, no outdoor vehicle display area shall exceed 60,000 square feet of continuous paved surface.

5.6.3.4. For purposes of this Section, a paved surface shall not be considered “continuous” if it is separated by a Type A buffer yard (as set forth in Article 7) along the boundary between the display areas. The buffer yard may be penetrated by a driveway of not less than twelve (12) or more than eighteen (18) feet in width for every one-hundred fifty (150) feet in buffer yard length.

5.6.3.5. No vehicles may be displayed or stored on or within required buffer yards, including required street yards.

5.6.3.6. Paved areas reserved for the storage or display of vehicles for sale shall not be required to be striped for individual vehicle spaces. However,

5.7. BED AND BREAKFAST INNS

5.7.1. LOCATION.

Bed and breakfast inns shall only be established in accordance with Table 4.6-1 (see Article 4) subject to the following location limitations:

5.7.1.3. a Historic Preservation Overlay District or;

5.7.1.4. on a parcel with frontage on a major or minor thoroughfare; or

5.7.1.5. within a PUD Planned Unit Development.

5.7.2. STRUCTURE.

A structure which shall be used for a bed and breakfast inn shall not be altered in any way that changes its general residential appearance.

5.7.3. APPROVAL CRITERIA.

5.7.3.3. Off-Street Parking. See Table 8.1-6.

5.7.3.4. Reception/Private Parties. No receptions, private parties or similar activities shall be permitted unless expressly approved as part of the Conditional Use Permit or Site Plan application.

5.7.3.5. Room Rental. No long-term rental of rooms shall be permitted. The maximum length of stay shall be thirty (30) days.

5.7.3.6. Guest Rooms. All guest rooms shall be located within the principal structure.

5.7.3.7. Meals. Other than registered guests, no meals shall be served to the general public unless expressly approved as part of the Conditional Use Permit or Site Plan application. No cooking facilities shall be permitted in the guest rooms.

5.7.3.8. Accessory Uses. Accessory uses associated with a bed and breakfast inn include those as set forth in § 5.2.1.

5.7.3.9. Area Regulations. Area regulations for minimum lot size, applicable setbacks, building height and other dimensional requirements for new construction shall be governed by the zoning district in which the property is located.

5.7.3.10. Maximum Number of Guest Units.

The maximum number of guest bedrooms for each proposed bed and breakfast inn shall be five (5), unless the applicant can demonstrate that the original floor plan of the structure contained a larger number of bedrooms, in which case the original number of bedrooms may be approved as allowable guest lodging

5.7.3.11. Landscaping and Buffering. See Article 7.

5.7.3.12. Lighting. All outdoor lights must be shielded to direct light and glare only onto the facility's premises and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.

5.7.3.13. Signage. Signs for bed and breakfast inns shall meet the requirements of the Sign Regulations and the requirements set forth below.

5.7.3.13.1. Signage shall be limited to one ground sign per establishment.

5.7.3.13.2. Ground signs identifying bed and breakfast inns shall not exceed five square feet in area nor five feet in height. Such signs shall not be illuminated.

5.7.3.13.3. No additional advertising signs shall be permitted on the property.

5.8. CAMPGROUNDS

5.8.1. CAMPGROUNDS NOT PERMITTED.

Campgrounds shall not be permitted within any zoning district in the City of Kannapolis jurisdiction.

5.9. CEMETERIES and CREMATORIES

5.9.1. APPLICABILITY.

The provisions of this Section apply to any Cemeteries or crematories as allowed by Table 4.6-1 (see Article 4) and subject to the provisions below.

5.9.2. CRITERIA.

5.9.2.3. Pursuant to NCGS § 90-210.43, any crematories may be established in commercial or industrial zoned district so long as it is adjacent to a funeral establishment.

5.9.2.4. Minimum setback for all structures, excluding gatehouses, is one hundred (100) feet from any exterior property line. Gatehouses shall be excluded from any minimum building setback.

5.9.2.5. Minimum setback for any grave or burial plot is ⁽¹⁾twenty (20) feet from any exterior property line, except that any grave or burial plot shall be allowed within three (3) feet of a property line of an abutting parcel that contains an existing cemetery.

5.9.2.6. Buffering and Landscaping shall be regulated in accordance with Article 7.

5.10. CONVENIENCE STORES (with or without Gasoline sales)

5.10.1. APPLICABILITY.

The provisions of this Section shall apply to Convenience Stores and Gas Stations as allowed in Table 4.6-1 (see Article 4) and subject to the provisions below.

5.10.2. ACCESSORY USES.

5.10.2.1 The following uses shall be considered accessory to Convenience Stores or Gas Stations:

5.10.2.2 Car washes.

5.10.2.3 Gasoline pumps and canopies.

5.10.2.4 Automatic teller machines (ATM's).

5.10.2.5 Restaurants located within the Primary Building.

5.10.2.6 Sales of prepackaged beverages, snack foods, tobacco products, and other retail merchandise, and rental of video tapes and video cassette recorders.

5.10.3 APPROVAL CRITERIA

5.10.3.1 Location.

5.10.3.2 Principal Structure - The site shall have frontage on a thoroughfare or collector road.

5.10.3.3 Service Equipment – No above-grade equipment for the vehicular service of gasoline, oil, or other petroleum product, shall be closer than 25 feet to any public right-of-way and 10 feet to any exterior property line. Pump island canopies shall not be located closer than 10 feet to a public right-of-way or an exterior property line.

5.10.4 Maximum Square Footage for Principal Structure.

5.10.4.1 In C-2 District: No maximum.

5.10.4.2 In all other districts that allow convenience stores: 2,000 leasable square feet for enclosed structure.

5.10.5 Lighting.

All exterior lights must be shielded to direct light and glare only onto the Lot or Parcel where the convenience store is located, and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.

5.10.6 Signage.

See Article 12 Signage Regulations.

⁽¹⁾5.10.7 CD Campus Development District Requirements.

5.10.7.1 The retail component of CD Campus Development projects must be sixty (60) acres or more before convenience stores and gas stations will be allowed.

5.11. HAZARDOUS WASTE FACILITIES

5.11.1. PURPOSE AND INTENT.

The purpose and intent of this Section is to provide supplementary guidance and standards for the issuance of conditional use permits for hazardous waste facilities. State law restricts the extent to which local zoning may regulate hazardous waste facilities, the General Assembly recognizes that the reasonable concerns of local governments may be considered. NCGS §§ 130B-3, 130B-4.

5.11.2. ZONING DISTRICTS.

To the extent not preempted by NCGS § 130A-293, hazardous waste facilities shall be permitted only in the zoning districts indicated in Table 4.6-1 (See Article 4).

5.11.3. CRITERIA.

Consistent with NCGS § 130B-20, no zoning compliance permit shall be approved until a conditional use permit application has been filed. Prior to the filing of any application for a zoning compliance permit, the site designation review committee established pursuant to NCGS § 130B-9 and 4 NCAC § 18.0305 shall examine the criteria for issuance of a conditional use permit and shall submit its recommendation to the North Carolina Hazardous Waste Management Commission. No conditional use permit or zoning compliance permit shall be issued unless the applicant complies in all respects to the above-referenced regulations.

5.12. HOME OCCUPATIONS

5.12.1. PURPOSE

5.12.1.1. A home occupation is permitted as an accessory use in the districts shown in Table 4.6-1 (see Article 4) and in the PUD, TND, and TOD Districts. The purpose of the home occupation regulations and performance standards are:

5.12.1.1.1. to establish criteria for operation of home occupations in dwelling units within residential districts;

5.12.1.1.2. to permit and regulate the conduct of home occupations as an accessory use in a dwelling unit, whether owner or renter-occupied;

5.12.1.1.3. to ensure that such home occupations are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses;

5.12.1.1.4. to ensure that public and private services such as streets, sewers, water or utility systems are not burdened by the home occupation to the extent that usage exceeds that normally associated with residential use;

5.12.1.1.5. to allow residents of the community to use their residences as places to enhance or fulfill personal economic goals, under certain specified standards, conditions and criteria;

5.12.1.1.6. to enable the fair and consistent enforcement of these home occupation regulations; and

5.12.1.1.7. to promote and protect the public health, safety and general welfare.

5.12.1.1.8. No home occupation, except as otherwise provided herein, may be initiated, established, or maintained except in conformance with the regulations and performance standards set forth in this Section.

5.12.2. LIST OF HOME OCCUPATIONS.

The following list specifies those occupations that may be conducted at home. The home occupations permitted herein are allowed in a residential setting

because they do not compromise the residential character of an area, do not generate conspicuous traffic, do not visually call unusual attention to the home, and do not generate noise of a nonresidential level.

5.12.2.1. Accounting, bookkeeping

5.12.2.2. Appraisal

5.12.2.3. Legal services

5.12.2.4. Real estate sales

5.12.2.5. Insurance sales

5.12.2.6. Childcare

5.12.2.7. Drafting services

5.12.2.8. Tailoring (dressmaking, alterations, etc.) services

5.12.2.9. Engineering, architecture and landscape architecture

5.12.2.10. Financial planning & investment services

5.12.2.11. Fine arts studio (creation of individual works only, no mass production)

5.12.2.12. Interior decoration (no studio permitted)

5.12.2.13. Mail order business (order taking only, no stock in trade)

5.12.2.14. Musical instruction, voice or instrument

5.12.2.15. Tutoring

5.12.2.16. Office work

5.12.2.17. Similar, low impact endeavor as determined by the Administrator

5.12.3. PERFORMANCE STANDARDS.

Home occupations are authorized if they comply with the performance standards set forth in Table 5.12-1.

5.12.4. HOME OCCUPATIONS NOT PERMITTED.

The following Uses shall not be permitted as home occupations in Residential Zoning Districts: medical/dental office, motor vehicle repair or similar uses, temporary or permanent motor vehicle display for purposes of sale or lease, restoration or conversion, engine repair, furniture refinishing, gymnastic facilities, studios or outdoor recreation activities, medical/cosmetic facilities for animals including animal care or boarding facilities, machine shop/metal working, retail sales, commercial food preparation and catering, contractors shops, mortuaries, medical procedures, body piercing and/or painting, tattoos, or any type of physical or psycho therapy, or any other use not allowed in accordance with § 5.12.2.

5.12.4.1. (RESERVED).**5.12.5. EXEMPT HOME OCCUPATIONS.**

No Home Occupation Permit shall be required for the home occupations listed below, provided that they comply with all applicable home occupation regulations and standards of this Section, and provided further, that all persons engaged in such activities reside on the premises and the following conditions are satisfied:

5.12.5.1. artists, sculptors, composers not selling their artistic product to the public on the premises;

5.12.5.2. craft work, such as jewelry-making and pottery with no sales permitted on the premises;

5.12.5.3. home offices with no client visits to the home permitted;

5.12.5.4. telephone answering and message services.

5.12.6. UNSAFE HOME OCCUPATIONS.

If any home occupation has become dangerous or unsafe, or presents a safety hazard to the public, pedestrians on public sidewalks or motorists on public right-of-way, or presents a safety hazard to adjacent or nearby properties, residents or businesses, the Administrator shall issue an order to the dwelling owner and/or tenant on the property on which the home occupation is being undertaken directing that the home occupation immediately be made safe or be terminated. The property owner and/or tenant shall be responsible for taking the necessary corrective steps or

measures, but in the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period of time, the Administrator may take any and all available enforcement actions to render the home occupation and dwelling safe. Costs incurred by the Administrator, if forced to take enforcement actions, shall be borne by the property owner and shall be treated as a zoning violation pursuant to § 1.6 of this Ordinance.

5.12.7. EXPIRATION OF HOME OCCUPATION PERMIT.

The Home Occupation Permit shall lapse automatically if the property is used for non-residential purposes, if the dwelling is sold or rented, if the home occupation operator dies, or if the home occupation is discontinued for a period of 180 days or more and is not renewed within thirty (30) days after written notice from the Administrator.

**Table 5.12-1
Home Occupation Performance Standards**

PERFORMANCE STANDARDS
The use shall be clearly incidental and secondary to residential occupancy.
The use shall be conducted entirely within the interior of the residence. (1)Exception may be made for outside play areas of childcare facilities.
The use shall not change the residential character of the dwelling.
The use shall conform with applicable state and local statutes, ordinances and regulations and is reviewed by Administrator.
A full-time resident operator shall be employed.
Obtain permits before operating home occupation, except those exempted under § 5.12.5.
No more than one (1) non-resident employee shall be permitted.
Not more than 9 clients/day (limit 1 visit per day per each client) are permitted to visit home occupation. Hours for visits shall be between the 8:00 AM and 8:00 PM.
Not more than 25% of the gross floor area of the principal dwelling structure shall be utilized for the home occupation
Childcare (maximum of (1)8 or fewer children)
Demonstrate that public facilities and utilities are adequate to safely accommodate equipment used for home occupation
Storage of goods and materials shall be inside and shall not include flammable, combustible or explosive materials
Parking shall be provided only in driveway and shall not create hazards or street congestion
Outside storage of heavy equipment or material shall be prohibited.
No more than three (3) commercial vehicles are to be stored/parked on site, provided, the vehicles are owned/operated by the residents. No commercial vehicles may be stored on site on a regular basis which are not owned or operated by persons residing on the premises.
No generation of dust, odors, noise, vibration or electrical interference or fluctuation shall be that is perceptible beyond the property line.
Deliveries and pickups shall be those normally associated with residential services and shall <ul style="list-style-type: none"> a. not block traffic circulation b. occur only between 6:00 a.m. and 8:00 p.m. Monday-Saturday
Accessory Buildings shall not be used for home occupation purposes.
Signage shall comply with the following: <ul style="list-style-type: none"> a. Limited to one sign of four (4) square feet in area. b. Must be mounted flush against the wall of principal dwelling unit c. Shall not be illuminated.

5.13. JUNKYARDS/SALVAGE YARDS

5.13.1 APPLICABILITY.

5.13.1.1 Any Junkyard or Salvage Yard with outdoor storage.

5.13.1.2 Any Industrial or Extractive Use involving outdoor storage of junk as a Primary Use or an Accessory Use.

5.13.1.3 The use of land for the outdoor storage of junk or salvage shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

standards no later than three (3) years following the effective date of this Ordinance or applicable amendment hereto, provided however, that no existing junkyard/salvage yard may be expanded or enlarged except in accordance with the provisions herein in this Ordinance.

Notwithstanding the above provisions, any junkyard/salvage yards that were subject to, and have complied with, the amortization provisions of the previous Kannapolis Zoning Ordinance shall not be subject to this Section 5.13.3.

5.13.2 CRITERIA.

No conditional use permit or building permit shall be issued for a junkyards/salvage yard unless all of the following standards and criteria are satisfied as provided in the Junkyard Control Act, NCGS § 136-144 (i):

5.13.2.1 Junkyards/salvage yards shall be screened in accordance with the standards for buffers in Article 7. Materials shall not be vertically stacked so as to be visible from the public right-of-way or any buffer yard as required by Article 7.

5.13.2.2 No yard or storage lot shall be placed or maintained within a required yard setback.

5.13.2.3 All tires not mounted on a vehicle shall be neatly stacked or placed in racks. If stacked, the stacks shall not be stacked over six feet in height. No garbage or other putrescent waste, likely to attract vermin, shall be kept on the premises. Gasoline, oil, or other hazardous materials which are removed from scrapped vehicles or parts of vehicles kept on the premises shall be disposed of in accordance with applicable federal, state and local regulations. All other regulations of the state of North Carolina and the City of Kannapolis such as, but not limited to, building codes, fire codes, weed regulations, and health regulations shall apply to the operation of all such uses.

5.13.3 AMORTIZATION

All Nonconforming junkyard/salvage yards not found in compliance with the requirements of this Section shall either cease and desist or meet full compliance

5.14. DEMOLITION LANDFILLS

5.14.1. APPLICABILITY.

The provisions of this Section apply to any Demolition Landfill as defined by NCGS 130A-294(4)a. NCGS § 130A-294(4)a. provides that “A landfill for the disposal of demolition debris generated on the same parcel or tract of land on which the landfill is located that has a disposal area of one acre or less is exempt from the permit requirement of this section and rules adopted pursuant to this section, and shall be governed by G.S. 130A-301.2.”

{Note: NCGS § 130A-301.2 expires on June 30, 2001. These provisions are consistent with those requirements. The Solid Waste Management Division of DENR repealed its application and operational rules (formerly 15A NCAC 13B.0506 and 13B.0507 for demolition landfills on January 4, 1993.}

5.14.2. USE REGULATIONS.

The use of land for a demolition landfill shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.14.3. CRITERIA.

5.14.3.1. The disposal area of a demolition landfill shall not exceed one (1) acre.

5.14.3.2. The disposal area shall not exceed five (5) feet above average grade in height.

5.14.3.3. The landfill shall accept and dispose of demolition debris generated on land that the applicant owns in a landfill that is located on the same parcel or tract of land.

5.14.3.4. The landfill shall be located at least one-quarter mile from any other landfill of any type.

5.14.3.5. The perimeter of the landfill shall be at least 50 feet from the property boundary.

5.14.3.6. The perimeter of the landfill shall be at least 500 feet from the nearest drinking water well.

5.14.3.7. The waste disposal area of the landfill is at least four feet above the seasonal high groundwater table.

5.14.3.8. The landfill shall comply with all

applicable federal, State, and local laws, regulations, rules, and ordinances.

5.14.3.9. The applicant shall comply with the siting criteria set forth in 15A NCAC § 13B.0564. After the expiration of NCGS § 130A-301.2, the requirements of 15A NCAC § 13B.0564 shall supersede any standards in this Section 5.14 to the extent permitted by state law.

5.14.3.10. Demolition debris may be disposed in a landfill to which this section applies without being separated into demolition debris components. No waste other than that generated by the demolition of a building or other structure shall be disposed of in the landfill.

5.14.3.11. The owner or operator shall establish sufficient controls to ensure that the refuse remains within the disposal area, and that the refuse cannot be removed by winds, stormwater, or other foreseeable natural or man-made forces.

5.14.3.12. No building shall be located or constructed immediately above any part of a landfill to which this section applies. No construction, except for site preparation and foundation work, shall be commenced on a parcel or tract of land on which a landfill to which this section applies is located until the landfill is closed.

5.14.4. APPROVAL PROCESS.

5.14.4.1. Zoning Clearance and City Council Approval. No demolition landfill shall be established until a zoning clearance permit is obtained from the Administrator.

5.14.4.2. Duration of Permit. A zoning clearance shall be effective for a twelve-month period. The demolition landfill is presumed to be an adjunct to an ongoing construction process and, as such, is permitted only for the life of the construction project. The Administrator shall renew the zoning clearance if a written finding is made that the construction project is ongoing.

5.14.4.3. Application Requirements. The following information must be submitted at the time

of application for such permit:

5.14.4.3.1. Survey. A survey showing the exact location of the proposed demolition landfill within the entire project.

5.14.4.3.2. Contents of Landfill. A statement detailing all contents of the landfill.

5.14.4.3.3. Reclamation of Landfill Area. A statement detailing the plans for reclaiming the landfill at the end of its use.

5.14.4.3.4. Future Building Plans. A statement describing plans for future building, if any, on the landfill site.

5.14.5. CLOSURE.

5.14.5.1. Within 30 days of the closure of the landfill, or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the register of deeds of Cabarrus or Rowan County a survey plat of the property that meets the requirements of NCGS § 47-30. The plat shall accurately show the location of the landfill and shall reference this section. A certified copy of the plat showing the book and page number where recorded shall be filed with the Administrator at the same time that the certified copy of the notice required by § 5.14.5.2 of this section is filed with the Administrator.

5.14.5.2. Within 30 days of the closure of the landfill or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the register of deeds of Cabarrus or Rowan County a notice that a landfill for the disposal of demolition debris has been located on the land. Where state law requires an identical notice, compliance with the state requirements shall constitute compliance with this Section. The notice shall include a description of the land that would be sufficient as a description in an instrument of conveyance. The notice shall list the owners of record of the land at the time the notice is filed and shall reference the book and page number where the deed or other instrument by which the owners of record acquired title is located. The notice shall reference the book and page number where the

survey plat required by § 5.14.5.1 is recorded. The notice shall reference this section, shall describe with particularity the type and size of the building or other structure that was demolished, and shall state the dates on which the landfill opened and closed. The notice shall be executed by the owner or owners of record as provided in Chapter 47 of the North Carolina General Statutes. The register of deeds shall record the notice and index it in the grantor index under the name of the owner, or names of the owners, of the land. The owner shall file a certified copy of the notice showing the book and page number where recorded, together with a certified copy of the survey plat as required by § 5.14.5.1 of this section, with the Administrator. Unless a filing fee is required for DENR, the owner shall pay a filing fee to the Administrator within 15 days after the notice is recorded.

5.14.5.3. The owner or operator of the landfill shall close the landfill within 30 days after the demolition is completed or terminated. The owner or operator shall compact the demolition debris and cover it with at least two feet of compacted earth. The cover of the landfill shall be graded so as to minimize water infiltration, promote proper drainage, and control erosion. Erosion of the cover shall be controlled by establishing suitable vegetative cover.

5.15. MINI-WAREHOUSE/SELF-SERVICE STORAGE

5.15.1. PURPOSE.

This Section sets standards for the establishment and maintenance of safe and attractive mini-warehouse developments that will remain a long-term asset to the community. The use of land for mini-warehousing/self-service storage shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.15.2. MINIMUM/MAXIMUM LOT SIZES.

5.15.2.1. Minimum lot size - one (1) acre

5.15.2.2. ⁽¹⁾The maximum lot size for all mini-warehouse / self-service storage facilities shall be limited to three (3) acres. This provision shall apply to individual and combined developments.

5.15.3. BUILDING HEIGHT.

5.15.3.1. Except as allowed in § 5.15.3.2, building height shall not exceed one story. For purposes of this section, one story shall mean and refer to a maximum interior ceiling height of 10 feet, which may include a maximum of eight feet with an additional two feet to accommodate a garage-type sliding or roll up door.

5.15.3.2. In the C-2 district, height maximums are governed by the standard allowances as set forth in Article 4, § 4.7.

5.15.4. LANDSCAPING AND BUFFERING.

5.15.4.1. A type “B” buffer yard as prescribed in Article 7 shall be provided around the perimeter of the mini-warehouse development.

5.15.4.2. Signs or other advertising mediums shall not be placed within the buffer yard.

5.15.4.3. All areas on the site not covered by pavement or structures shall be brought to finished grade and planted with turf or other appropriate ground cover(s) and shall conform to the standards and planting requirements of Article 7.

5.15.5. ON-SITE MANAGER OR SECURITY SYSTEM REQUIRED.

No facility herein provided for shall be used or maintained unless and until an on-site manager shall be provided for such facility, or a security system has been installed.

5.15.6. COMMERCIAL ACTIVITY PROHIBITED.

It shall be unlawful for any owner, operator or lessee of any storage warehouse or portion thereof to offer for sale, or to sell any item of personal property or to conduct any type of commercial activity of any kind whatsoever other than leasing of the storage units, or to permit same to occur upon any area designated as a storage warehouse.

5.15.7. RESIDENTIAL USE PROHIBITED.

No portion of any Mini-Warehouse/self-service storage shall be used, on a temporary or permanent basis, as a dwelling.

5.15.8. REPAIR OF AUTOS, BOATS, MOTORS, AND FURNITURE PROHIBITED; STORAGE OF FLAMMABLE LIQUIDS PROHIBITED.

Because of the danger from fire or explosion caused by the accumulation of vapors from gasoline, diesel fuel, paint, paint remover, and other flammable materials, the repair, construction, or reconstruction of any boat, engine, motor vehicle, or furniture, and the storage of any propane or gasoline engine or propane or gasoline storage tank is prohibited within any structure on a tract of land designated as a mini-warehouse. All mini-warehouse rental contracts shall include clauses prohibiting (a) the storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals, and (b) the use of the property for purposes other than dead storage.

5.15.9. LIGHTING.

All outdoor lights must be shielded to direct light and glare only onto the Lot or Parcel which the Mini Warehouse is located. Lighting and glare must be deflected, shaded and focused away from any adjoining residential property.

5.15.10. OUTSIDE STORAGE.

No outside storage shall be permitted except the storage of recreational vehicles per § 5.30.1.2.1.

5.15.11. ACCESSIBILITY.

Vehicular ingress-egress shall provide for safe access by customers and emergency vehicles.

5.15.12. OFF-STREET PARKING STANDARDS.

5.15.12.1.Location of Customer Parking. Parking shall be provided by parking/driving lanes adjacent to the buildings.

5.15.12.2.Interior Travel Lanes. Interior travel lanes shall have a minimum width of twelve (12) feet and shall provide a nine (9) foot wide parking lane. Lanes serving storage units on each side shall provide a nine (9) foot parking lane for each side.

5.15.12.3.Off-street Parking. One parking space is required for every 200 storage units with a minimum of two spaces required. The parking spaces shall be provided adjacent to the manager's office.

5.15.12.4.Vehicular Storage. Required parking spaces shall not be rented as, or used for, vehicular storage. However, additional parking area may be provided for recreational vehicle storage.

5.16. CHILDCARE FACILITIES

5.16.1 ⁽¹⁾APPLICABILITY.

The provisions of this Section apply to any:

5.16.1.1. Childcare Center.

5.16.2 PERMIT APPLICATION.

The following shall be submitted with the application for a zoning compliance permit or certificate of zoning compliance:

5.16.2.1. A copy of the N.C. state license issued to the facility.

5.16.2.2. Evidence that the N.C. Department of Transportation has issued driveway permits for the facility (may submit copies).

5.16.2.3. Such areas shall be located not less than one-thousand (1,000) feet from any Hazardous Waste Facility.

5.16.3 ACCESS AND LOADING / UNLOADING.

A paved or otherwise improved driveway, with ingress and egress directly onto a public street, shall be constructed in such a manner as to provide entrance to and exit from the property without backing onto the street right-of-way. Standards for access and off-street parking/loading are set forth in Article 8 of this Ordinance.

5.16.4 ⁽¹⁾SITE CONSIDERATIONS

Outdoor activity or play areas shall not be located in any front yard and shall be of a size equal to seventy-five (75) square feet per attendee, excluding children in cribs.

5.16.4.1. As a principal use, an indoor activity area shall be provided equivalent to at least twenty-five (25) square feet per attendee

5.16.5 ⁽¹⁾SCREENING AND FENCING

Play areas shall be enclosed by a chain link or solid fence or wall, with a minimum height of five (5) feet.

5.16.5.1. Play areas shall be located a distance of at least 1 ½ times the applicable zoning district setback requirement when abutting residential property.

5.16.5.2. Landscaping shall be provided in accordance with Article 7 of this ordinance.

5.17. RESIDENTIAL CARE FACILITES

5.17.1. APPLICABILITY.

The provisions of this Section apply to any Nursing Home or Residential Care Facility. The Provisions of this section shall not apply to a Family Care Home as defined in Appendix A.

The use of land for a residential care facility shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.17.2. STATE LICENSING.

Prior to submission of an application for a certificate of zoning compliance, an owner/operator of a residential care facility shall have received a license from the State of North Carolina for the operation of such a facility.

5.17.3. LOCATION.

No residential care facility shall be located within one thousand (1,000) feet from any Hazardous Waste Facility.

5.17.4. SECURITY FENCING.

Residential care facilities that provide care to patients who suffer from Alzheimer's disease, dementia or other similar disability that may cause disorientation, shall provide a security fence, with a minimum height of five (5) feet, along the perimeter of any portion of the site that is accessible to these patients.

5.18. BARS AND NIGHTCLUBS

5.18.1. PURPOSE.

Regulations for ⁽¹⁾bars and nightclubs are developed to establish consistent guidelines covering review of such uses, which because of their nature, may be objectionable to nearby residential uses. Special regulations and review of individual cases are necessary to determine if these establishments are located in areas where traffic and noise impacts are minimized. It is not the purpose of these regulations to regulate activities controlled by the North Carolina Alcoholic Beverage Control Commission pursuant to NCGS § 18B-901.

Ordinance, an Application for Development Approval for a ⁽¹⁾bar or nightclub shall include a Floor Plan of the Building or Structure in which the private club is located. Said Floor Plan shall delineate separately the areas of the Building or Structure which are used for the dispensing of food and beverages, entertainment, and/or dancing.

5.18.2. APPLICABILITY.

The provisions of this section shall apply to any ⁽¹⁾bar or nightclub as defined by NAICS code 7224 or dance club as defined by NAICS code 713990 to the extent not preempted by NCGS § 18B-901. Bars or nightclubs located completely within motels and hotels shall be exempt from the provisions of these regulations, provided that they encompass no more than 25 percent of the gross floor area of the motel or hotel.

The use of land for a ⁽¹⁾bar or nightclub shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.18.3. SPACING REQUIREMENTS.

No ⁽¹⁾bar or nightclub shall be established within ⁽¹⁾200 feet of any of the following:

5.18.3.1. any Residential Zoning District, any Elementary School, Middle School, or High School;

5.18.3.2. any Child Care Center or Child Care Facility;

5.18.3.3. any Religious Institution; or

5.18.3.4. any other existing private club.

5.18.3.5. ⁽¹⁾All measurements used in the enforcement of this Section shall be from the outer building walls of the proposed use to the nearest property line of the above uses

5.18.4. REVIEW AND APPROVAL.

In addition to the requirements of Appendix B to this

5.19. QUARRYING AND MINING USES

5.19.1. PURPOSE.

To establish consistent guidelines covering review of applications for mining and quarrying operations where an approved site plan is considered necessary to protect any adjacent residential property from smoke, dust, and noise, and to minimize the effect of scarification of the landscape.

5.19.2. APPLICABILITY.

The provisions of this Section apply to any mining or extractive uses as identified in North American Industrial Classification System (NAICS) Industry Group 21. The use of land for quarrying and/or mining shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.19.3. COMPLIANCE WITH STATE REGULATIONS.

All proposed mining and quarrying activities must conform to the "North Carolina Mining Act of 1971" as amended, (NCGS § 74-46 et seq.) NCAC, Title 15, Chapter 5. The applicant shall, if disturbing more than one acre of land, obtain, or be in the process of obtaining, a mining permit issued by the North Carolina Department of Natural Resources and Community Development Regional Office. Wherever conflicts exist between federal, state, or local laws, the more restrictive provisions shall apply.

5.19.4. REVIEW AND APPROVAL.

Submission requirements to obtain complete review and approval for mining and quarrying operations on sites with a disturbed area of one acre or more include a conditional use permit application, a reclamation plan, and a Preliminary Site Plan detailing the minimum general standards as set forth in Appendix B of this Ordinance.

5.19.5. SETBACKS.

Minimum setbacks in Section 4.7 shall apply to the extent of land disturbing activity and the placement of mining machinery or structures.

5.19.6. BARRIER REQUIRED.

5.19.6.1. A barrier shall be provided around the perimeter of a mine or quarry. The barrier shall consist of either an earthen berm, a solid fence, landscaping, existing topographical features or any

combination of the above. Existing vegetation may also be considered in accordance with Section 7.4.4.4 of this Ordinance. The barrier shall be constructed so as to block the view of the extraction operations from any point on an adjacent property line or public right-of-way, except at points of ingress and egress. For the purposes of this section, the view shall be defined as a perpendicular linear view from the edge of the property line toward the interior of the mine or quarry site. The Board of Adjustments, through the issuance of a Conditional Use Permit, shall have the authority to grant exceptions where a barrier as required by this section is not practical or feasible. Landscaping shall be in accordance with Article 7.

5.19.6.2. The operation shall provide an entrance gate to prevent vehicular access during non-operational hours.

5.19.7. EXEMPTIONS.

5.19.7.1. Earth moving activity disturbing less than one acre of land shall be exempt from the provisions of this Section.

5.19.7.2. Site grading, as part of a construction project, moving earth from one area of a lot or development to another shall be exempt from the provisions of this Section, regardless of the area disturbed.

5.19.7.3. Borrow pits are exempt from the provisions of this Section.

5.20. SEXUALLY ORIENTED BUSINESSES

5.20.1. PURPOSE & FINDINGS.

5.20.1.1. The City Council of the City of Kannapolis finds that this Ordinance is necessary in order to protect the City from the potential secondary effects of sexually oriented businesses including crime, the protection of the City's retail trade, the prevention of the blighting of neighborhoods and the maintenance of property values, protecting and preserving the quality of the City's neighborhoods and the City's commercial districts, the protection of the City's quality of life, the increased threat of the spread of sexually transmitted diseases, and the protection of the peace, welfare and privacy of persons who patronize sexually oriented businesses. Experience in this City as well as in cities and counties within and outside of North Carolina including the County of Los Angeles, the City of Garden Grove and the cities of Renton, Washington; Seattle, Washington; Detroit, Michigan; Austin, Texas; Indianapolis, Indiana; and Phoenix Arizona; have demonstrated that such uses have objectionable secondary effects upon immediately adjacent residential and commercial areas. The City recognizes and relies upon the experience of these other cities and counties in adopting sexually oriented business regulations including the County of Los Angeles (as discussed in *Smith v. County of Los Angeles* 211 Cal. App. 3d 188 (1989)); City of Renton, Washington (as discussed in *City of Renton v. Playtime Theatres, Inc.* 475 U.S. 41 (1976)); the City of Seattle Washington (as discussed in *Northend Cinema v. City of Seattle* 90 Wash. 2d 709, 585 P.2d 1153 (1978)); and the County of Palm Beach, Florida (as discussed in *Movie & Video Work v. Board of County Commissioners* 723 F. Supp. 695 (S.D. Fla. 1989)) in support of this Ordinance. The City also recognizes and relies upon the studies done by: (1) the 1979 Adult Use Study by the Phoenix Planning Department; (2) Tucson, Arizona (1990); (3) the 1991 report to the City of Garden Grove by Drs. McCleary and Meeker on the relationship between crime and adult business operations; (4) the City of Los Angeles in 1977; (5) the 1984 "Analysis of Adult Entertainment Businesses in Indianapolis" by the Department of metropolitan Development; (6) Minneapolis, Minnesota (1980); (7) Cleveland, Ohio (1977); (8) Oklahoma City, Oklahoma (1986);

(9) Austin, Texas' study on effects of adult businesses; (10) Amarillo, Texas (1977); (11) Beaumont, Texas (1982); (12) Houston, Texas (1983); and (13) Seattle, Washington (1989).

5.20.1.2. The City Council believes the following statements are true, in part based upon its understanding of the experiences of the various jurisdictions identified.

5.20.1.2.1. Crime rates tend to be higher in residential areas surrounding sexually oriented businesses than in industrial areas surrounding sexually oriented businesses;

5.20.1.2.2. Areas within close walking distance of single and multiple family dwellings should be free of sexually oriented businesses;

5.20.1.2.3. Sexually oriented businesses should be located in specific areas of the City which are a specified distance from sensitive uses such as residences, parks, religious institutions and schools, irrespective of whether physical barriers are present. This necessary to (1) ensure that the impact on such sensitive uses by adverse secondary effects caused by sexually oriented businesses are mitigated to the maximum extent possible; (2) to prevent ad hoc decisions with respect to a potential sexually oriented business site which does not meet the criteria set forth herein; and (3) to provide certainty to the residents of the City and sexually oriented business operators with respect to potential adult use sites.

5.20.1.2.4. The image of the City as an attractive place to reside will be adversely affected by the presence of sexually oriented businesses in close proximity to residential uses, schools, religious institutions and parks;

5.20.1.2.5. The existence of sexually oriented businesses in close proximity to residential areas has been shown in some cities to reduce the property values in those residential areas;

5.20.1.2.6. A reasonable regulation of the location of sexually oriented businesses protects the image of the community and its property

values and protects its residents from the adverse secondary effects of sexually oriented businesses while providing those who desire to patronize sexually oriented businesses an opportunity to do so in appropriate areas in the City; and

5.20.1.2.7. There is substantial evidence that an increase in crime tends to accompany, concentrate around, and be aggravated by sexually oriented businesses, including but not limited to an increase in the crimes of narcotics distribution and use, prostitution, pandering, and violence against persons and property. The studies from other cities establish convincing evidence that sexually oriented businesses which are not regulated as to permissible locations often have a deleterious effect on nearby businesses in residential areas, causing, among other adverse secondary effects, an increase in crime and a decrease in property values. Regulations for sexually oriented businesses should be developed to prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than waiting for problems to be created.

5.20.1.3. The City Council recognizes and relies on the findings set forth in the 1986 N.C. Attorney General's Report on Pornography in support of this Ordinance including, but not limited to its recommendations that local governments ban certain features of video booths that facilitate carnal sexual encounters.

5.20.1.4. The City Council finds the following, in part based upon its understanding of the documents and judicial decisions in the public record:

5.20.1.4.1. Evidence indicates that some dancers, models and other persons who publicly perform specified sexual activities or publicly display specified anatomical parts in sexually oriented businesses (collectively referred to as "performers") have been found to engage in sexual activities with patrons of sexually oriented businesses on the site of the sexually oriented business;

5.20.1.4.2. Evidence has demonstrated that performers employed by sexually oriented businesses have been found to offer and provide private shows to patrons who, for a price, are permitted to observe and participate with the performers in live sex shows;

5.20.1.4.3. Evidence indicates that performers at sexually oriented businesses have been found to engage in acts of prostitution with patrons of the establishment;

5.20.1.4.4. As a result of the above, and the increase in incidents of AIDS and Hepatitis B, which are both sexually transmitted diseases, the City has a substantial interest in adopting regulations which will reduce, to the greatest extent possible, the possibility for the occurrence of prostitution and casual sex acts at sexually oriented businesses.

5.20.1.5. The City Council has determined that the establishment of a sexually oriented business development permit process is a legitimate and reasonable means of ensuring that:

5.20.1.5.1. Operators of sexually oriented businesses comply with the reasonable regulations of this Ordinance;

5.20.1.5.2. The recognized secondary impacts of a proposed sexually oriented business in a specific location are mitigated; and

5.20.1.5.3. Operators of sexually oriented businesses have specific guidelines with respect to where they can establish or operate a sexually oriented business.

5.20.1.6. It is not the intent of the City Council in adopting this Ordinance to suppress any activities protected by the First Amendment, but rather to enact a content neutral ordinance which addresses the secondary effects that sexually oriented businesses have on the City.

5.20.1.7. The City Council desires to protect the rights conferred by the United States Constitution to sexually oriented businesses in a manner that ensures the continued and orderly development of property within the City and diminishes those undesirable negative secondary effects the previously mentioned studies have shown to be associated with the development and operation of sexually oriented businesses.

5.20.1.8. The City Council and Planning and Zoning Commission have held duly noticed public hearings, to receive input and testimony from the public concerning the adoption of this proposed Ordinance.

5.20.1.9. These regulations are authorized by NCGS § 160A-181.1.

5.20.2. DEFINITIONS.

The words, terms and phrases set forth herein shall have the meanings prescribed below provided, however, that any words, terms or phrases not included below shall have the meanings prescribed by Appendix A to this Ordinance.

Adult Bookstore - A bookstore (1) that receives a majority of its gross income during any calendar month from the sale of printed and/or video materials/publications (including but not limited to videocassettes, books, and magazines) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or (2) having as a preponderance of its of printed and/or video materials/publications that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section.

Adult Establishment - An adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult live entertainment business, or massage business as defined in this section.

Adult Live Entertainment Business - Any establishment or business wherein adult live entertainment is shown for observation by patrons; or any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas, as defined in this section.

Adult Motion Picture Theater - An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or described anatomical areas, as defined in this section, for observation by patrons therein. Adult motion picture theater does not include any adult mini-motion picture theater as defined in this section.

Adult Mini-Motion Picture Theater - An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting,

describing, or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons therein.

Massage - The manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.

Massage Business - Any establishment or business wherein massage is practiced including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors. Massage Therapy offices shall be excluded from these provisions provided the applicant is a licensed therapist by the State of North Carolina.

Sexually Oriented Business - Any business or enterprise that has as one of its principal business purposes or as a significant portion of its business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities as specified in NCGS § 14-202.10. A "Sexually-Oriented Business" includes any Adult Establishment as defined in this Section.

Sexually Oriented Devices - Without limitation any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

Specified Anatomical Areas - Less than completely and opaquely covered (1) human genitals, pubic region, (2) buttock, or (3) female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if complete and opaquely covered.

Specified Sexual Activities - Human genitals in a state of sexual stimulation, or arousal; acts of human masturbation, sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.

5.20.3. APPLICABILITY.

The provisions of this Section apply to any Sexually-Oriented Business/Adult Establishments. The use of land for a sexually-oriented business or adult establishment shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.20.4. LOCATIONAL STANDARDS.

5.20.4.1. No sexually-oriented business shall be located within one hundred (100) feet of any other sexually-oriented business.

5.20.4.2. No sexually-oriented business shall be located within one hundred (100) feet of a public or private school, public or private day care center, public or private recreation center, a church or religious complex or a park used by the public for recreational purposes.

5.20.4.3. No Sexually-oriented business shall be located within one hundred (100) feet of a hotel, motel, or boarding house that has fewer than thirty (30) sleeping rooms.

5.20.4.4. No Sexually-oriented business shall be located within one hundred (100) feet from any AG, RL, RE, RV, RC, RM-1, RM-2, O&I, C-1, B-1, CC or CD Zoning District

5.20.4.5. All measurements used in the enforcement of this Section shall be from property line to property line.

5.20.5. SIGNS AND DISPLAYS.

5.20.5.1. Signage shall be regulated in accordance with Article 12, except that no sexually oriented printed material, slide, video, photograph, written text, live show, or other sexually oriented visual display shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.

5.20.6. GENERAL STANDARDS

Sexually oriented businesses may be established only within the C-2 Districts and only on properties with direct access and frontage on the section of South Cannon Boulevard (U.S. Highway 29) between the First Street overpass and the intersection of Centergrove Road (NC Highway 136). Such businesses are subject to the issuance of a conditional use permit. The following additional standards shall apply to all sexually oriented Businesses.

5.20.6.1. No more than one sexually oriented business or use shall be permitted on the same lot of record, or in the same building, structure, or portion thereof.

5.20.6.2. Any sexually oriented business shall be located on an individual lot of record, and shall not be part of a combined development.

5.20.6.3. No sexually oriented business shall be open earlier than eight o'clock (8:00) a.m. or later than 12:00 midnight. No sexually business shall be open on any Sunday

5.20.6.4. All sexually oriented businesses shall be open to inspection at all reasonable times by any law enforcement officer, the Administrator, or such other persons as the Administrator may designate in the normal course of his duties.

5.20.6.5. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation of a performance displaying any portion of the breasts below the top of the areola or any portion of the pubic hair, buttocks, genitals, and/or anus may be visible outside of the adult oriented business.

5.20.6.6. Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square-foot sign may be placed on the door to state hours of operation and admittance to adults only.

5.20.7. NONCONFORMING SEXUALLY-ORIENTED BUSINESSES

All Nonconforming sexually-oriented businesses which are not found in compliance with the requirements of this Section shall either cease and desist or meet full compliance standards no later than five years (5) years following the effective date of this Ordinance or applicable amendment hereto provided however, that no existing open storage area may be expanded or enlarged except in accordance with the provisions herein.

Notwithstanding the above provisions, any sexually-oriented businesses that were subject to, and have complied with, the amortization provisions of the previous Kannapolis Zoning Ordinance shall not be subject to this Section 5.20.7.

5.21. WIRELESS TELECOMMUNICATIONS SERVICES

5.21.1. PURPOSE.

The purpose of this Section 5.21 is to:

5.21.1.1. protect residential areas and land uses from potential adverse impacts of towers and antennas;

5.21.1.2. encourage the location of towers in non-residential and less developed areas;

5.21.1.3. strongly encourage joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;

5.21.1.4. encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

5.21.1.5. encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;

5.21.1.6. enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

5.21.1.7. consider the public's health and safety in regard to communication towers; and

5.21.1.8. avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

5.21.2. DEFINITIONS.

The words, terms and phrases shall have the meanings assigned below provided, however, that any words, terms or phrases not defined herein shall have the meaning assigned in Appendix A to this Ordinance:

Accessory Equipment Structure - A building or cabinet-like structure located adjacent to, or in the immediate vicinity of, a wireless telecommunication tower or antenna to house equipment customarily incidental to the receiving or transmitting of wireless broadcasts, cellular telephone calls, voice messaging and paging services.

Alternative Tower Structure - Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna - Equipment used for transmitting or receiving radio frequency signals, which is attached to a tower, building or other structure, usually consisting of a series of directional panels, microwave or satellite dishes, or omnidirectional "whip" antenna.

Antenna, Stealth - Wireless telecommunication antenna and related equipment designed to blend into the surrounding environment or integrated into the physical structure to which it is attached.

Base Transceiver Station - Equipment that provides the link between wireless communications and land-based public telephone switching networks, including radio frequency transceivers, back-up power sources, power amplifiers, and signal processing hardware, typically contained in a small building or cabinet.

Communications Tower - A tower, which supports communication (broadcast, receiving, or relay) equipment, utilized by commercial, government or other public and quasi-public users. This does not include private home use of satellite dishes and television antennas or amateur radio operators as licensed by the Federal Communications Commission (FCC).

Satellite Dish Antennae or Satellite Dish - A parabolic antennae designed to receive electromagnetic transmissions from a satellite.

Tower - Any ground-mounted, pole, spire, structure or combination thereof, including supporting lines, cables, wires, braces and masts, to which a telecommunications antenna is attached or affixed.

Tower, Lattice - Three- or -four-legged steel girded structures typically supporting multiple communications users and services generally ranging from 60 to 200 feet in height.

Tower, Monopole - Single pole design, approximately three feet in diameter at the base narrowing to approximately one and a half feet at the top, generally ranging from 25 to 150 feet in height.

Wireless Telecommunication Services (WTS) - Licensed or unlicensed wireless telecommunication services including cellular, digital cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), commercial or private paging services, or similar services marketed or provided to the general public. This definition does not include services by non-commercial entities in the amateur radio service, public safety radio service, or licenses assigned non-profit organizations such as the Red Cross, Civil Air Patrol, or other military affiliated radio services that are licenses by the Federal Communications Commissions.

5.21.3. APPLICABILITY.

The provisions of section 5.21 apply to any new Wireless Telecommunications Tower or Antenna, except as provided below. The use of land for wireless telecommunication service antenna or tower shall be permitted as set forth in Table 4.6-1 (see Article 4) subject to the criteria below.

5.21.4. GENERAL GUIDELINES and REQUIREMENTS.

5.21.4.1. PRINCIPAL OR ACCESSORY USE. Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

5.21.4.2. LOT SIZE. In the event that a tower or antenna is installed and/or leased on a portion of a lot, the lot in its entirety will determine any and all district development regulations that the structure may be subjected to; including but not limited to: setback, lot-coverage, and other such requirements.

5.21.4.3. INVENTORY OF EXISTING SITES. Each applicant for an antenna and/or tower shall provide to the Administrator with an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the City, Cabarrus County, the City of Kannapolis, or the Towns of Harrisburg and Mt.

Pleasant. Said information shall include specific information about the location, height, and design of each tower. Each applicant shall also provide a one-year build out plan for all other proposed wireless communications facilities within the City. The Administrator may share such information with other applicants applying for administrative approvals or conditional use permits under this Ordinance or with other organizations seeking to locate antennas within the jurisdiction of this Ordinance provided, however that the Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

5.21.4.4. AESTHETICS.

5.21.4.4.1. Towers shall either maintain a galvanized steel finish or be painted a neutral color so as to reduce visual obtrusiveness.

5.21.4.4.2. The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings located adjacent to the tower or antenna site.

5.21.4.4.3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure. This is in order to make the antenna, and related equipment, as visually unobtrusive as possible.

5.21.4.5. LIGHTS. No tower or antenna shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, day-time strobes or steady night time light or other illumination devices, except as required by the FAA, FCC, or the City. This restriction against lights shall not apply to towers which have been combined with light standards for illumination of ball fields, parking lots, playgrounds, or other similar public uses. If lighting is required, the lighting sources and design shall be designed to create the minimum practicable penetration of areas outside the boundaries of the Lot or Parcel.

5.21.4.6. STATE OR FEDERAL REQUIREMENTS. All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other state or federal government agency with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with the revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

5.21.4.7. BUILDING CODES; SAFETY STANDARDS. To ensure the structural integrity of towers and antennas, the owners of such facilities shall ensure that they are maintained in compliance applicable with standards contained in the State Building Code.

5.21.4.8. FALL ZONE. No tower or antenna shall be designed and/or sited such that it poses a potential hazard to nearby residences or surrounding properties or improvements. To this end, any tower or antenna, not located a distance equal to the height of the tower plus 50 feet away from all habitable structures, property lines, or other towers, shall be designed to withstand the maximum forces expected from wind and ice when the tower is fully loaded with antennas, transmitters and other equipment. Compliance with this requirement shall be certified by a professional engineer licensed by the State of North Carolina in a report describing the tower structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed.

5.21.4.9. ESSENTIAL SERVICES. Wireless telecommunications towers and antennas shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities.

5.21.4.10. SIGNS. Signs on a tower, or on any portion of the premises leased for wireless communication use, shall be limited to those needed

to identify the property and the owner and to warn of any danger. Signs which advertise for commercial purposes are prohibited. All signs shall comply with the requirements of the Sign Regulations of this Ordinance.

5.21.5. PERMIT REQUIREMENTS.

5.21.5.1. No wireless telecommunications tower or antenna shall be erected or established unless and until a Zoning Clearance permit has been issued pursuant to § 3.2.4 of this Ordinance.

5.21.5.2. A Stealth Antennae which does not exceed sixty-five (65) feet in height is permitted as of right, notwithstanding any provisions of the Use Matrix which requires a Conditional Use Permit. This provision does not permit antennas in any zoning district where they are expressly prohibited by the Use Matrix.

5.21.5.3. In addition to the procedures, standards and criteria set forth in § 3.5 of this Ordinance, conditional use permits for towers and antennas shall be issued in accordance with the following provisions:

5.21.5.3.1. Towers or antennas sixty-five (65) feet or more from the average ground level shall require a conditional use permit. This applies to mounted antennas, referring to the total height from the base of the building or other structure to the top of the antenna.

5.21.5.3.2. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a professional engineer licensed in the State of North Carolina.

5.21.5.4. INFORMATION REQUIRED. In addition to any other information required pursuant to § 3.5 of this Ordinance, applications for conditional use permits for towers shall include the following information:

5.21.5.4.1. A preliminary major site plan consistent with Appendix B of this Ordinance which clearly indicates the location, type, and height of the proposed tower; on-site land uses and zoning; adjacent land uses and zoning (including when adjacent to other zoning

jurisdictions); adjacent roadways; proposed means of access; setbacks from property lines elevation drawings of the proposed tower and any other structures; and other information deemed by the Administrator to be necessary to assess compliance with this Section.

5.21.5.4.2. The setback distance between the proposed tower and the nearest residential unit and residentially zoned properties.

5.21.5.4.3. The availability of suitable existing towers, other structures, or alternative technology.

5.21.5.4.4. The separation distance from other towers pursuant to Table 5.21-2 shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

5.21.5.4.5. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.

5.21.5.4.6. A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.

5.21.5.4.7. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

5.21.5.4.8. A description of the feasible alternative location(s) of future towers or antennas within the City based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

5.21.5.4.9. A statement of compliance with the FCC Radio Frequency (RF) exposure standards.

5.21.6. APPROVAL CRITERIA

5.21.6.1. LOCATION. All non-stealth and stealth towers and mounted antennas are permitted by right or as a conditional use as listed in Table 4.6-1 in § 4.6.

5.21.6.2. FACTORS CONSIDERED IN GRANTING CONDITIONAL USE PERMITS FOR TOWERS. In determining whether to issue a conditional use permit, the Board of Adjustment shall consider, in addition to any other standards in this Ordinance governing conditional use permits, the following factors:

5.21.6.2.1. Height of the proposed tower;

5.21.6.2.2. Proximity of the tower to residential structures and residentially zoned district boundaries;

5.21.6.2.3. Nature of uses on adjacent and nearby properties;

5.21.6.2.4. Surrounding topography;

5.21.6.2.5. Surrounding tree coverage and vegetation;

5.21.6.2.6. Design of the tower, with particular reference to design characteristics that reduce or eliminate visual obtrusiveness;

5.21.6.2.7. Proposed ingress and egress; and

5.21.6.2.8. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in § 5.21.6.3 of this Ordinance.

5.21.6.3. AVAILABILITY OF SUITABLE EXISTING TOWERS, OTHER STRUCTURES, OR ALTERNATIVE TECHNOLOGY. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Administrator, or Board of Adjustment (if conditional use permit is required), that no existing tower, structure or alternative technology, that does not require the use of towers or structures, can accommodate the applicant's proposed tower or antenna. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed tower or antenna may consist of any or all of the following:

5.21.6.3.1. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.

5.21.6.3.2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

5.21.6.3.3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

5.21.6.3.4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

5.21.6.3.5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs required by the owner of existing tower or structure that exceed new tower development are presumed to be unreasonable.

5.21.6.3.6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

5.21.6.3.7. The applicant demonstrates that alternative technologies, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, that does not require the use of towers or structures, are unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

5.21.6.3.8. SEPARATION. Towers shall be separated a distance, as measured from the base, equal to at least the minimum standards established in Table 5.21-2 from any preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the preexisting tower and the base location, pursuant to a site plan, of the proposed tower.

5.21.6.3.9. SECURITY FENCING. Towers shall be enclosed by security fencing not less than six (6) feet in height and no more than eight (8) feet in height and shall be equipped in such a

manner as to deter climbing.

5.21.6.3.10. LANDSCAPING.

Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound. Plant materials forming the visual buffer may be existing on the subject property or installed as part of the proposed facility, but existing mature plant growth and natural land forms on the site shall be preserved to the maximum extent possible. The Administrator may waive these requirements in locations where the view of the tower base is obstructed by existing buildings or natural topography and cannot be viewed from adjacent property or a public street.

5.21.7. BUILDINGS OR OTHER EQUIPMENT STORAGE.

5.21.7.1. ACCESSORY EQUIPMENT STRUCTURES. The equipment cabinets and other support structures used in association with towers or antennas shall comply with the following provisions:

5.21.7.1.1. Equipment cabinets and/or other structures shall comply with all applicable building codes.

5.21.7.1.2. Guys and accessory buildings shall satisfy the minimum zoning district setback requirements.

5.21.7.2. LOCATION OF ACCESSORY EQUIPMENT STRUCTURES.

5.21.7.2.1. Equipment cabinets and/or structures shall be no greater than fourteen (14) feet in height or three hundred (300) square feet in gross floor area. The entry or access side of a cabinet and/or structure shall be gated by a solid, sight-obscuring gate that is separate from the cabinet and/or structure. Such access way shall not face residentially zoned property.

5.21.8. CO-LOCATION.

5.21.8.1. GOOD FAITH. Applicants and permittee shall make a good faith effort to share wireless communication structures, facilities and sites where

feasible and appropriate. Good faith effort shall include sharing technical information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location, and may include negotiations for erection of a replacement support structure to accommodate co-location. A competitive conflict to co-location or financial burden caused by sharing such information normally will not be considered as an exception to the duty of good faith.

5.21.8.2. THIRD PARTY TECHNICAL REVIEW. In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the Administrator may require the applicant to obtain a third party technical study at the applicants expense. The Administrator may review any information submitted by the applicant and permittee(s) in determining whether good faith has been exercised.

5.21.8.3. EXCEPTIONS. No co-location may be required where the shared use would or does result in significant interference with the broadcast or reception capabilities of the existing wireless communication facilities or the failure of the facilities to meet federal standards for emissions.

5.21.8.4. VIOLATION; PENALTY. Failure to comply with co-location requirements may result in denial of a permit request or revocation of an existing permit.

5.21.9. REMOVAL OF ABANDONED ANTENNAS AND TOWERS.

5.21.9.1. Any antenna or tower that is not operated for a continuous period of one (1) year shall be considered abandoned, and the owner of such facility shall remove the antenna or tower within ninety (90) days of receipt of notice from the Board of Adjustment notifying the owner of such abandonment. If there are two or more users of a single tower or antenna, then this provision shall not become effective until all users cease using the tower or antenna for the prescribed period. "Physically remove" shall include, but not be limited to:

5.21.9.1.1. Removal of antennas, mount, equipment shelters and security barriers from the subject property.

5.21.9.1.2. Proper disposal of the waste

materials from the site in accordance with local and state solid waste disposal regulations.

5.21.9.1.3. Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain in the after condition.

5.21.9.2. AUTHORITY TO REMOVE / REQUIRED BOND. A performance bond shall be set for 1.25 times the estimated cost of removal of all towers, antennas, and accessory equipment structures that are approved. The performance bond shall be filed prior to issuance of a zoning clearance. This amount will be determined by a removal company and certified by a North Carolina Licensed Engineer. For every year following approval, the bond shall increase by an inflation factor based upon the Consumer Price Index (CPI) Index.

5.21.10. NONCONFORMING USES.

5.21.10.1.NO EXPANSION OF NONCONFORMING USE. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a nonconforming use or structure.

5.21.10.2.PREEXISTING TOWERS. Preexisting towers constructed prior to the adoption of this Ordinance shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this chapter.

5.21.10.3.REBUILDING DAMAGED OR DESTROYED NONCONFORMING TOWERS OR ANTENNAS. Notwithstanding this Section, bona fide nonconforming towers or antennas that are damaged or destroyed by weather events or other non-manmade causes to conform to the requirements of this Ordinance provided the type, height, and location of the tower onsite shall be of the same type and intensity as the original facility; provided, however, that any destroyed lattice or guyed tower shall be replaced with a monopole structure only. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned.

Table 5.21-1 Separation Requirements from Offsite Uses/Areas	
Single-family or duplex residential units [1]	200 feet or 300% of tower height, whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary plat approval which is not expired [2]	
Vacant unplatted residentially zoned land [3]	100 feet or 100% of tower height, whichever is greater
Existing multi-family residential units greater than duplex units	
Non-residentially zoned lands or non-residential uses	None, only setbacks apply
[1] Includes modular homes and mobile homes used for living purposes. [2] Separation measured from base of tower to closest building setback line. [3] Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan and any multi-family residentially zoned land greater than a duplex.	

**Table 5.21-2
Separation Distances Between Towers**

	Monopole 65 ft. in height or greater	Monopole less than 65 ft. in height
Monopole 65 feet in height or greater	1,500 feet	750 feet
Monopole less than 65 feet in height	750 feet	750 feet

5.22 TEMPORARY USES

5.22.1. PURPOSE

The Temporary Use Permit is a mechanism to allow a use on a short-term basis and certain seasonal or transient uses not otherwise allowed. Prior to conducting or establishing a temporary use or structure, approval of a Temporary Use Permit by the Planning Department is required pursuant to Section 3.2 of this Ordinance.

5.22.2. APPROVAL CRITERIA.

All temporary uses listed in this Section require a Temporary Use Permit. The Administrator shall not approve or modify and approve an application for a Temporary Use Permit unless the following criteria, specific regulations and time limitations are met in addition to criteria for any particular temporary use as specified in sections 5.22.2.1 through 5.22.9 below.

5.22.2.1. Compatibility with / Effect on Surrounding Area. The allowance of such use shall not be detrimental to the public health, safety and general welfare, and the use shall be consistent with the purpose and intent of this Ordinance and the specific zoning district in which it will be located; and the use is compatible in intensity, characteristics and appearance with existing land uses in the immediate vicinity of the temporary use, and the use, value and qualities of the neighborhood surrounding the temporary use will not be adversely affected by the use or activities associated with it. In addition to those listed herein, factors such as location, noise, odor, light, dust control and hours of operation shall be considered.

5.22.2.2. Location (Permission Required). The use shall not be on publicly or privately owned property unless the applicant first obtains written approval from the owner.

5.22.2.3. Traffic. The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particularly regarding any type of traffic generated or impacted by the temporary use or structure and impact upon traffic circulation in the area.

5.22.2.4. Parking and Access. Adequate off-street parking shall be provided to serve the use. The use shall not displace the required off-street parking spaces or loading areas of the principal permitted uses on the site. The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.

5.22.2.5. Property Line Setbacks. Structures and/or display of merchandise shall comply with the yard and property line setback requirements of the zone district within which it is located. The items shall be displayed so as not to interfere with the sight triangle of the intersection of the curb line of any two (2) streets or a driveway and a street. In no case shall items be displayed, or business conducted within the public right-of-way, except that this section shall not apply to the CC district.

5.22.2.6. Display of Permit. A copy of the zoning compliance permit must be prominently displayed on the site of the temporary use.

5.22.2.7. Number Per Parcel. Only one (1) Temporary Use Permit shall be permitted for a single parcel of land at any given time.

5.22.2.8. PERIOD OF TIME BETWEEN PERMITS.

Temporary Use Type	Per Location				Section of UDO
	Min. Permit Length	Time Between Expiration	Max. Time Allowed Per year	Permit Required	
Agriculture Products, Non-Residential	180 days	NA	180 days**	Yes	5.22.3.2
Agriculture Products, Residential	7 days	NA	180 days**	Yes	5.22.3.2
Amusement Enterprises	21 days	90 days *	21 days**	Yes	5.22.5
Fireworks Stands	45 days	90 days *	45 days**	Yes	5.22.3.1
Mobile Food Vending Service	30 days	Renewable	90 days	Yes	5.22.3.5
Promotional Activities	7 days	1 day*	21 days	Yes	5.22.7
Contractors Office, Equipment, Sheds	30 days	NA	12 months	Yes	5.22.4.1
Real Estate Office, Trailer	6 months	Renewable	12 months	Yes	5.22.4.2
Real Estate Office, Model Home	6 months	Renewable	12 months	Yes	5.22.4.3
Single Family, Temporary Structure	12 months	NA	12 months**	Yes	5.22.4.4
Religious Events, Offsite	30 days	Renewable	60 days	Yes	5.22.6
Religious Events, Onsite	NA	NA	NA	No	5.22.9.1
Sidewalk Vendors	90 days	90 days *	90 days**	Yes	5.22.3.4
Special Events and Activities	NA	NA	NA	No	5.22.9.2
Yard Sales	2 days	Renewable	8 days	Yes	5.22.8

*The period of time between an expired Temporary Use Permit on a parcel and application for another Temporary Use Permit on the same parcel per fiscal year (July 1st to June 30th).

**Even if at any time the temporary use does not occupy the permitted site, the noted day/month limit shall not be extended

5.22.3. TEMPORARY RETAIL SALES USES.

5.22.3.1. Fireworks Stand. Limited to only non-residential zones ⁽²⁾. A maximum of one (1) structure, not to exceed 120 square feet in area, shall be allowed. The structure must be portable and completely removed at the end of the permit period.

5.22.3.2 Seasonal Sale of Agricultural Products. (including Christmas Trees). ⁽²⁾A maximum of one (1) building/display booth shall be allowed and may cover a maximum of 400 square feet in non-residential districts. The ⁽¹⁾building/display booth must be portable and completely removed at the end of the period. A maximum display area of 100 square feet shall be allowed in residential districts. Such residential sales are limited to selling excess vegetables and fruits incidental to the residence. Residential seasonal sales shall be limited to the daylight hours.

5.22.3.3. Sidewalk Vendors ⁽²⁾Limited non-residential outdoor sales (sidewalk vendors) may receive a temporary use permit if the sales activities are incidental to the primary use, the sales activity is conducted with property owner permission and the display area is located in the C-1 or C-2 zoning districts. The display area shall not extend beyond the sidewalk or concrete apron entrance of the building, nor encroach into a public right-of-way. If the private sidewalk or pedestrian way in front of the building is used for display of merchandise, a minimum width of four (4) feet must remain unobstructed for pedestrian use. ⁽²⁾Temporary sales activities are prohibited on vacant property and from vehicles.

5.22.3.4 ⁽²⁾Mobile Food Vending Service. The sale of food or beverages from a mobile food vending unit shall only be permitted in the C-1 or C-2 zoning districts on occupied lots. Mobile food vending services are prohibited on vacant properties. The mobile food vending service shall not be located in any required setback, any sight distance triangle, or required buffer. Trash receptacles must be provided for customers to dispose of food wrappers, food utensils, paper products, cans, bottles, food, and other such waste. Such receptacle shall be located no more than 10 feet from the mobile food vendor. The vendor is responsible for removing all trash, litter, and refuse from the site at the end of each business day. The hours of operation shall be between 8:00am and

9:00pm. The mobile food vending service shall provide one (1) parking space per 250 square feet of the mobile food vending unit. The mobile food vending service shall not be located in any minimum required parking spaces for other businesses on the site. There shall be a minimum of 400 feet of separation from any other mobile food vending service. These restrictions shall not be applicable to special events recognized by the City where mobile food vendors are permitted or non-profit fundraising events of five (5) days or less. ⁽²⁾A zoning compliance permit must be placed in the front window of the mobile food vendor vehicle or trailer while in use.

5.22.4. REAL ESTATE DEVELOPMENT AND CONSTRUCTION-RELATED TEMPORARY USES.

5.22.4.1. ⁽¹⁾Contractors Office and Equipment / Storage Sheds. Accessory to a Construction Project (Residential and/or non-residential) Placement of such a temporary use is limited to a period of time determined by an estimated project completion date with the option of an extension of up to one (1) year as and if approved by the Administrator. A construction trailer may be used for a contractor's office and/or for the contractor's storage of equipment and/or materials. All temporary buildings and trailers shall be completely removed from the site within thirty (30) days of issuance of either a Certificate of Occupancy on the last permitted Residential unit and/or completion of the Non-Residential construction project which has been issued a Certificate of Occupancy.

5.22.4.2. ⁽¹⁾Real Estate Office in a Construction or a Temporary Modular Unit.

Temporary structures, such as a construction trailer(s) and/or temporary modular unit(s) may be used as a real estate sales office, promotion and management office in any new construction project for the sale and promotion of properties within that project and/or its future phases only. Such a temporary use shall be allowed in all zoning districts, ⁽²⁾if approved by the Administrator. A real estate office may not contain sleeping or cooking accommodations unless located in a model dwelling.

5.22.4.3. Real Estate Office in a Model Home. Accessory to Construction of a New Residential Development, ⁽²⁾if approved by the Administrator.

(1) City Council approved 12/12/2005

(2) TA-2009-02 – City Council approved 5/11/2009

The number of employees utilizing the office at any one time may not exceed five (5). A real estate office may not contain sleeping or cooking accommodations unless located in a model dwelling.

5.22.4.4. Single Family Dwelling in Temporary Structure.

During the active construction period (after a building or grading permit has been issued) of a construction project involving a non-residential use or a residential development with building permit(s) for more than 50 units at any one time, one (1) mobile home or trailer may be allowed on the same property to be used as a temporary residence by a night watchman for a period not to exceed 12 months or the active construction period, whichever is less. The temporary home shall be removed from the site within 14 days of issuance of the Certificate of Zoning Compliance for a non-residential structure or the first residential unit if within a residential development.

5.22.4.5. No Recreational Vehicles.

No Recreational Vehicles shall be permitted as a Temporary Use or Structure.

5.22.5. AMUSEMENT ENTERPRISES.

Carnivals, circuses, fairs, and amusement rides may be allowed in any non-residential zoning district⁽¹⁾. This classification excludes events conducted in a permanent entertainment facility.

5.22.6. RELIGIOUS EVENTS, OFFSITE.

Religious events in a tent or other temporary structure may be allowed in any non-residential zoning district with the issuance of a temporary use permit.⁽¹⁾

5.22.7. PROMOTIONAL ACTIVITIES IN BUSINESS AND COMMERCIAL ZONES INVOLVING THE DISPLAY OF GOODS AND MERCHANDISE (OUTDOOR COMMERCIAL SALES).

A temporary use permit may be issued for limited non-residential outdoor sales for permanent retail establishments, if the sales activities are incidental to the primary use and the sales activity is conducted by an onsite tenant or merchant who sells similar or related merchandise in the C-1 or C-2 zoning districts. ⁽¹⁾The outdoor display of items for sale at permanent retail establishments shall not extend beyond the sidewalk or concrete apron entrance of the building. If

the private sidewalk or pedestrian way in front of the building is used for display of merchandise, a minimum width of four (4) feet must remain unobstructed for pedestrian use. ⁽¹⁾

5.22.8. YARD SALES.

A yard sale may be conducted by an individual occupant of a residence, a coordinated group of homeowners within an established development, or a civic or religious organization for the purpose of selling surplus household items for profit or for charitable purposes. Yard sales shall be prohibited on commercially developed properties and vacant lots. Items purchased elsewhere expressly for resale are prohibited. Goods intended for sale shall not be stored or displayed in the front or side yards of a dwelling except on the day of the sale. Each yard sale event is limited to the daylight hours. Yard sale signs shall be allowed in accordance with Section 12. 4. 18 of this Ordinance.

5.22.9 EXEMPT TEMPORARY USES.⁽¹⁾

5.22.9.1 Religious or Non-profit Events, Onsite.

Religious or non-profit events conducted entirely on a lot occupied by their primary facility are ⁽¹⁾ exempt from the provisions of this ordinance..

5.22.9.2 Special Events and Activities

Special events and activities conducted on public property, such as school sites and public parks, and public events on private property shall be exempt from the provisions of this Section of the Ordinance. However, such events and activities must comply with any guidelines, regulations and permitting process required by the authorizing agency (e.g. School District or a Parks and Recreation Department). A zoning waiver must be obtained for all special events and activities.

5.22.10. SIMILAR AND COMPATIBLE USES NOT SPECIFIED.

If a particular temporary use is listed in the Ordinance, the Administrator shall have the authority to grant a temporary use permit for a "similar and compatible use". Similar and compatible uses not specified are those uses which are similar and compatible to those allowed as temporary uses in this Section. Determination of what constitutes similar and compatible shall be made by the Administrator. In such instances, the applicant shall provide the following information such as type of use; number of employees; parking/circulation needs/hours of

operation; and duration of operation. If the Administrator determines that the use is not similar and compatible, the applicant may appeal the decision to the Board of Adjustment in accordance with Sect. 3.7 of this Ordinance.

5.23 MANUFACTURED/MODULAR HOME AND STORAGE BUILDING SALES

5.23.1 APPLICABILITY.

The provisions of this Section shall apply to any tract of land designed for the display and sale of bulky items including manufactured homes, modular homes, and/or enclosed storage (accessory) buildings and boats.

5.23.2 CRITERIA.

5.23.2.1 Site Plan Requirements. In addition to the site plan requirements found elsewhere in this ordinance, the site plan shall define display areas, storage and repair areas, office, and parking areas, landscaping materials, and materials used to obstruct off-site views. Other accessory uses (such as sales of items not described in this Section) may not locate on the site unless the use has been designated on the site plan. In the case of manufactured and modular home sales, the number of home display pads shall be noted on the plan.

5.23.2.2 Setbacks. All display pads shall be located at least ⁽¹⁾ten (10) feet from any property line or public street right-of-way line. Setbacks for permanent structures such as an office shall be located in accordance with the underlying district. ⁽¹⁾EXCEPTION: In the event that the width of a required landscape planting yard is greater than ten (10) feet, then the minimum building setback shall be in accordance with the width of the landscape planting yard.

5.23.2.3 Type of Manufactured Home. All manufactured homes displayed for sale (not in screened storage or repair areas) shall conform to all Federal Manufactured Home Construction and Safety Standards and/or building requirements and/or codes for Manufactured Homes and bear the required United States Department of Housing and Urban Development (HUD) tag and/or data plate.

5.23.2.4 Required Paving. All travel lanes, access lanes, areas, sidewalks, and parking spaces shall be paved. Storage and repair areas and display pads may be gravel.

5.23.2.5 Storage and Repair Areas. Storage and repair activities shall be completely screened from off-site views. Homes or buildings not for immediate sale, or replacement or discarded parts

and accessories shall also be screened from off-site views.

5.23.2.6 Sidewalks. Four (4) foot wide sidewalks shall be constructed throughout the site so as to provide complete pedestrian connections from the parking area to each displayed item (pad) and the office.

5.23.2.7 Signs. Signs shall conform to the sign regulations of the zoning district in which the use is located. In addition, each display item may have a sign not to exceed three square feet in area which gives information about the item.

5.23.2.8 Display Pads. All manufactured or modular homes and storage buildings shall be located on a pre-determined display pad (shown on the site plan) equaling no more than 120% of the structure's footprint.

5.23.2.9 Manufactured or Modular Home Display Areas. A minimum separation of at least ten (10) feet shall be maintained between display pads. Display homes shall be level and blocked. Display homes which are visible off-site shall be provided with some type of material (skirting, low fence or landscaping) around the base which will prevent open views underneath the manufactured home. Access to the display homes shall be through a stairway or other means that has a permanent appearance.

5.23.2.10 Storage Building Display Areas. A minimum separation of at least five (5) feet shall be maintained between display pads.

5.23.2.11 Landscaping Requirements. In addition to the landscaping requirements found elsewhere in this Ordinance, the display area for manufactured and modular home sales shall include the installation of one ornamental tree or shade tree, two medium shrubs and six small shrubs per display pad. The location of the plantings shall be determined by the Administrator but the intention is to provide each space with a permanent, residential appearance. Portions of any display area not included in individual display pads shall be grassed or mulched and suitably landscaped. No display area may be entirely paved.

5.24 AUTOMOTIVE TOWING BUSINESSES

5.24.1 APPLICABILITY.

The provisions of this Section shall apply to Automotive Towing Businesses as allowed in Table 4.6-1 (see Article 4) and subject to the provisions below.

5.24.2 APPROVAL CRITERIA.

5.24.2.1 Location.

5.24.2.1.1 Recognizing the importance of certain highways to the economic health and aesthetic image of the city, special development standards are designed to help safeguard the function and appearance of these major highway corridors. As a result, no Automotive Towing Business shall be located within a one mile radius from a major gateway to the city. For the purposes of this and other sections of the ordinance, major gateways are identified as any primary entry way into the city limits.

5.24.2.2 Storage.

5.24.2.2.1 In the C-2 District, no more than twenty (20) motor vehicles shall be stored on the premises at any one time.

5.24.2.2.2 In the I-1 District, no more than fifty (50) motor vehicles shall be stored on the premises at any one time.

5.24.2.2.3 A minimum six (6) foot high opaque fence shall surround the automotive storage area. Where storage area/fence is abutting a public street frontage, a street yard landscaping buffer as specified in Section 7.7 of the UDO shall be required.

5.24.2.2.4 No outdoor disassembly or salvaging shall be permitted. The storage yard is used exclusively for vehicle storage and no parts from stored vehicles are sold at wholesale or retail on said site.

5.25 RESIDENTIAL SUBDIVISIONS IN THE AG ZONE

5.25.1 APPLICABILITY.

The provisions of this Section shall apply to any tract of land to be subdivided for the purpose of residential development within an AG zone.

5.25.2 PURPOSE.

The purpose of this section is to protect land and open space from premature land subdivision (prior to municipal utilities) while recognizing that small subdivisions in the AG zoning district are necessary for family land transfers and similar transactions. Rural Subdivisions shall be considered the division of any parcel of record at the adoption date of this ordinance into 4 or more lots.

5.25.3 APPROVAL CRITERIA.

Rural subdivisions shall adhere to the following conditions:

- Lot size and Density - Lots within rural subdivisions shall meet the minimum lot standards for the AG district as outlined in Table 4.7-1;
- Each parcel of record shall not exceed a density of one lot per acre for the first three acres of property and one lot per four acres for additional acreage above three acres.

5.23.3.1. Access. Lots within Rural Subdivisions exceeding three lots shall not be permitted direct access to City or State maintained roads. A new interior road that meets the standards of this ordinance shall be constructed for access to these lots. Divisions of thirty lots or greater must include the construction of a left turn lane at the access point(s) that meets the standards of the City or the NC Department of Transportation. This provision shall in no way substitute for or lessen any additional requirements of the City or NCDOT made as part of a required driveway permit.

5.23.3.2 Orientation. All lots within rural subdivisions must have the front yard oriented to the interior access road.

5.23.3.3 Buffer. New rural subdivisions must be buffered from surrounding properties. The required buffer must meet the standards of Bufferyard Type A as outlined in Article 7.4 of this ordinance.

5.23.3.4. Tree Retention. Rural Subdivisions must include an effort to retain mature trees. Existing trees of 12 inch diameter at breast height (dbh) or greater must be identified and shall not be removed except when buildings, roads or required utilities are to be constructed.

5.23.4 APPEALS AND EXCEPTIONS.

Where a person or persons proposing a rural subdivision feels that they are not able to meet the provisions of this supplemental use section they may appeal to the Board of Adjustment. The Board of Adjustment shall review the appeal as they would a variance and follow all applicable procedures.

5.26 PALMISTRY/PALM READING/FORTUNE TELLER SERVICES⁽¹⁾

5.26.1 APPLICABILITY.

The provision of this Section shall apply to any Palmistry/Palm Reading/Fortune Teller Services establishment as allowed in Table 4.6-1 (see Article 4) and subject to the provisions below.

5.26.2 APPROVAL CRITERIA.

5.26.2.3 Location.

5.26.2.3.1 Recognizing the importance of certain highways to the economic health and aesthetic image of the city, special development standards are designed to help safeguard the function and appearance of these major highway corridors. As a result, no Palmistry/Palm Reading/Fortune Teller Services establishment shall be located within a one mile radius from a major gateway to the city. For the purposes of this and other sections of the ordinance, major gateways are identified as any primary entry way into the city limits.

5.26.2.4 Landscaping and Buffering.

See Article 7 Landscaping and Buffering Standards.

5.26.2.5 Signage.

Signs for Palmistry/Palm Reading/Fortune Teller Services establishments shall meet the requirements of the Sign Regulations (Article 12) and the requirements set forth below.

5.26.2.5.1 Signage shall be limited to one ground sign per establishment.

5.26.2.5.2 Ground signs identifying these establishments shall not exceed thirty-two square feet in area per side with a maximum of two sides.

5.26.2.5.3 No additional advertising signs shall be permitted on the property.

5.26.2.5.4 No neon or other effects which simulate the appearance of neon, nor any flashing, chasing, undulating or other variable lighting effects shall be used in connection with any use hereunder where such

lighting effect would be visible from the exterior of the establishment.

5.26.2.5.5 No signs shall be posted on the windows of the property which are visible from the exterior of the establishment.

5.26.2.6 Supplemental Requirements

In addition to the foregoing requirements and those other requirements of general applicability found elsewhere in this Ordinance, the following supplemental requirements shall also apply to uses under this section.

5.26.2.6.1 All public parking shall be paved with asphalt or concrete.

5.26.2.6.2 At least 50% of the floor area of the business which is open to the public, excluding restrooms, shall be devoted to the bona fide retail sale of merchandise.

5.26.2.6.3 The outdoor sale of goods or merchandise of any kind is prohibited.

5.26.2.6.4 No establishment offering services under this section shall be located any closer than 1 mile in any direction from any other establishment to which this section applies.

5.27 ⁽¹⁾CONCRETE FORM MANUFACTURING

5.27.1 APPLICABILITY

The provisions of this Section shall apply to any Concrete Form Manufacturing establishment as allowed in Table 4.6-1 (see Article 4) and subject to the provisions below.

5.27.2 APPROVAL CRITERIA

No conditional use permit or building permit shall be issued for concrete form manufacturing unless all of the following standards and criteria are satisfied:

5.21.2.1 Concrete Form Manufacturing establishments shall be located a minimum of 400 feet from any residentially zoned or developed property and within 1,000 feet of Interstate 85.

5.27.2.2 Outside storage shall be limited to the finished product of the on-site manufacturing only.

5.27.2.3 In addition to the standards for buffers in Article 7, outside storage of finished product must be screen by an opaque fence up to eight (8) feet in height.

5.27.2.4 Outside manufacturing and noxious smoke stack discharge is prohibited.

5.28. ⁽¹⁾AUTOMOBILE PARTS, TIRES, AND ACCESSORIES

5.28.1 Applicability

The provisions of this Section shall apply to any Automobile Parts, Tires, and Accessories establishment allowed in Table 4.6-1 in the CD Campus Development District and subject to the provisions below.

5.28.2 Approval Criteria

No conditional use permit or building permit shall be issued for Automobile Parts, Tires and Accessories facilities unless all of the following standards and criteria are satisfied:

5.28.3 The retail component of CD Campus Development projects must be sixty (60) acres or more before Automobile Parts, Tires, and Accessories will be allowed.

5.29 ⁽¹⁾RELIGIOUS INSTITUTIONS

5.29.1 APPLICABILITY

The provisions of this Section apply to any Religious Institution as allowed by Table 4.6-1 (see Article 4) and subject to the provisions below.

5.29.2 CRITERIA

5.29.2.1 The minimum setback requirement for all structures is 1 ½ times the applicable zoning district setback requirement when abutting residential property.

5.29.2.2 A preliminary major site plan which clearly indicates the location and type of all structures, on-site land uses, and zoning; adjacent land uses and zoning; adjacent roadways; proposed means of access; setbacks from property lines; elevation drawings of the proposed structures; and other information deemed by the Administrator to be necessary to assess compliance with the requirements of this ordinance

5.29.3 LIGHTING

5.29.3.1 Exterior lighting shall be placed so as to not direct or reflect light upon adjoining properties.

5.30 ⁽¹⁾PARKING OF COMMERCIAL AND RECREATIONAL VEHICLES

5.30.1 APPLICABILITY

The provisions of this Section shall apply to any vehicle that meets one of the following classifications:

5.30.1.1 Commercial / Special Vehicles

5.30.1.1.2 A vehicle with more than two axles.

5.30.1.1.3 A vehicle used in the transport of hazardous materials that requires the vehicle to be placarded under the Code of Federal Regulations, Part 172, Subpart F.

5.30.1.1.4 Construction vehicles designed for off-road usage such as bulldozers, excavators, and other similar equipment.

5.30.1.1.5 A vehicle requiring the driver to have either a Class A or Class B North Carolina Driver's License or the equivalent.

5.30.1.2 Recreational Vehicles

5.30.1.2.1 Recreational Vehicles, including but not limited to campers, travel trailers, or motor homes, used for traveling and recreational activities.

5.30.1.3 Watercraft Vehicles

5.30.1.3.1 Vehicles, including but not limited to boats and jetskis, designed to be operated on the water.

5.30.2 PERFORMANCE STANDARDS

5.30.2.1 Commercial / special vehicles, as defined in Section 5.30.1.1, shall be prohibited from being parked and/or stored in any primary Residential Zoning District, except as provided in Section 5.30.3.

5.30.2.2 Not more than one recreational vehicle shall be allowed to be parked and/or stored on a lot within any primary Residential Zoning District for a period exceeding sixty days.

5.30.2.3 No recreational vehicle shall be occupied for a period exceeding thirty days unless such vehicle is located within a conforming manufactured home park or recreational vehicle park.

5.30.2.4 No recreational or watercraft vehicle may be parked and/or stored in the front yard.

5.30.3 EXEMPTIONS

The following vehicles shall be exempt from the provisions of § 5.30.2:

5.30.3.1 Vehicles engaged in Bona fide farming operations, as defined in Appendix A of this ordinance.

5.30.3.2 Vehicles designed and operated in conjunction with typical residential purposes such as lawn mowers and garden tractors.

5.30.3.3 Vehicles engaged in loading or unloading household goods for a period of up to 24 hours.

5.30.3.4 Vehicles located on properties occupied by institutional and/or civic uses which are necessary for their normal operations.

5.30.3.5 Vehicles involved in governmental purposes and/or performing an emergency function.

5.31 ⁽¹⁾ELECTRONIC GAMING OPERATIONS

5.31.1 APPLICABILITY.

The provisions of this Section shall apply to any Electronic Gaming Operation establishment as defined herein and allowed in Table 4.6-1 (see Article 4) subject to the provisions below.

5.32.1.2 Definition. *Electronic Gaming Operations.* Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic devices⁽³⁾, including, but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. The term includes, but is not limited to internet sweepstakes, internet sweepstakes café, video sweepstakes, or cybercafés, which have a finite pool of winners. This does not include any lottery endorsed by the State of North Carolina.

5.31.2 APPROVAL CRITERIA.

5.31.2.1 Location.

5.31.2.1.1 ⁽²⁾Any establishment offering services under this section shall be located in a C-2 Zoning District.

5.31.2.1.2 ⁽³⁾Electronic gaming devices are allowed as an accessory use to the extent that the use functions are a use accessory, incidental, and subordinate in area, extent, and purpose to the principal use of the premises.

5.31.2.1.3 No establishment offering services under this section shall be located any closer than ⁽²⁾200 feet in any direction from any tax parcel having a current tax exempt designation from the county in which it is located. A survey may be required to verify compliance with this provision.

5.31.2.1.4 All measurements used in the enforcement of this Section shall be from the outer building walls containing⁽³⁾ the proposed use to the nearest property line of the ⁽³⁾tax parcel specified in Section 5.31.2.1.3. Such measurement shall be in a straight line without regard to intervening structures.

5.31.2.2 ⁽³⁾Landscaping and Buffering

Landscaping and buffering Standards for Electronic Gaming Operations shall meet the requirements of Article 7, Landscaping and Buffering Standards.

5.31.2.3 Signage.

5.31.2.3.1 ⁽³⁾Signs for Electronic Gaming Establishments shall meet the requirements of the Sign Regulations (Article 12) and the requirements set forth below.

5.31.2.3.2 No neon or other effects which simulate the appearance of neon, nor any flashing, chasing, undulating, or other variable lighting effects shall be used in connection with any use hereunder where such lighting effect would be visible from the exterior of the establishment.

5.31.2.3.3 No signs shall be posted on the windows of the property which are visible from the exterior of the establishment. ⁽²⁾

5.31.2.4 Supplemental Requirements

5.31.2.4.1 ⁽³⁾In addition to the foregoing requirements and those other requirements of general applicability found elsewhere in this Ordinance, the following supplemental requirements shall also apply to uses under this section.

5.31.2.4.2 At least one parking space shall be designated for each on-duty employee and every 2 electronic gaming terminals / computers / devices⁽³⁾ / gaming stations in the establishment. Designated parking spaces shall not include parking spaces allocated to other businesses within a combined development. In instances where the electronic gaming establishment is considered an accessory use, spaces allocated for the principal use may not be used to meet the requirements of this section.

5.31.2.4.3 ⁽³⁾Electronic Gaming Operations operating as a principal use, shall require all public parking be paved with asphalt or concrete,

5.31.2.4.4 ⁽¹⁾Each establishment permitted under this section shall post a permanent

weatherproof and reasonably visible placard in English and Spanish within two (2) feet of each entryway into the establishment.

5.31.2.4.5 No establishment offering the uses under this section shall be allowed within the following setback:

5.31.2.4.6 A two-hundred foot (200') setback is hereby established along each side of the gateway corridors listed below. The setback shall be measured perpendicular to the existing road right-of-way and shall extend one mile from the city limits line. For the purposes of this section, a major gateway is identified as an entry way into the city limits along any of the following transportation corridors: NC-3, NC-73, Hwy 29, Kannapolis Parkway, Lane Street, C Street, or Main Street.

5.32 ⁽¹⁾ICE VENDING MACHINES

5.32.1 APPLICABILITY.

The provisions of this Section shall apply to any Ice Vending Operation as allowed by Table 4.6-1 (see Article 4) and subject to the provision below.

5.32.2 APPROVAL CRITERIA

No permit shall be issued for freestanding ice vending machines unless all of the following standards and criteria are met:

5.32.2.1 Freestanding ice vending machines shall meet the minimum setback requirements for principle uses within the zoning district in which it is located.

5.32.2.2 Freestanding ice vending machines shall not be allowed in required parking areas, loading areas, or buffers.

5.32.2.3 A roof structure constructed of either metal or wood shall be required to screen the mechanical equipment and other rooftop appurtenances. Fabric screening shall not be allowed.

5.32.2.4 A planted buffer area with a minimum width of twenty-four (24) inches shall be established around three (3) sides of the base of the unit with evergreen shrubs planted on not less than eighteen (18) inch centers. Alternatives to the buffer area requirement may be submitted to the Technical Review Committee (TRC) for consideration, so long as the original intent of the requirements is met. Machines located on individual lots shall meet all other landscaping requirements established in Article 7 of the ordinance.

5.32.2.5 Signage shall be in accordance with the standards established in Article 12 of the ordinance.

5.32.2.6 Safety barriers shall be covered with a wood or brick façade.

5.32.2.7 At least one individual parking space and one van accessible handicapped parking space shall be provided. Parking spaces shall be striped and paved and meeting the minimum dimensional requirements of Article 8 of the ordinance.

5.32.2.8 Ice vending machines on individual lots shall meet the minimum driveway standards established in Article 8 of the

ordinance.

5.32.2.9 All ice vending machines shall be attached to a permanent foundation system in compliance with the North Carolina State Building Code.

5.32.2.10 All wheels, hitches, axels, transporting lights, and removable towing apparatus shall be permanently removed prior to approval of the certificate of compliance.

5.32.2.11 Site plans and architectural plans for construction shall be prepared by professional site plan preparer or draftsman.

5.33 ⁽¹⁾RURAL HOME OCCUPATIONS

5.33.1 PURPOSE

5.33.1.1 A rural home occupation is permitted as an accessory use in the district(s) shown in Table 4.6-1 (see Article 4). The purpose of the rural home occupation regulations and performance standards are:

5.33.1.1.1 to establish criteria for operation of rural home occupations in dwelling units within residential districts;

5.33.1.1.2 to permit and regulate the conduct of rural home occupations as an accessory use in a dwelling unit or accessory structure;

5.33.1.1.3 to ensure that such rural home occupations are compatible with, and do not have a deleterious effect on, adjacent and nearby residential properties and uses;

5.33.1.1.4 to ensure that public and private services such as streets, sewers, water or utility systems are not burdened by the rural home occupation to the extent that usage exceeds that normally associated with residential use;

5.33.1.1.5 to allow residents of the community to use their residences as places to enhance or fulfill personal economic goals, under certain specified standards, conditions, or criteria

5.33.1.1.6 to enable the fair and consistent enforcement of these rural home occupation regulations; and

5.33.1.1.7 to promote and protect the public health, safety, and general welfare.

5.33.1.1.8 No rural home occupation, except as otherwise provided herein, may be initiated, established, or maintained except in conformance with the regulations and performance standards set forth in this Section.

5.33.2 PERFORMANCE STANDARDS

Rural Home Occupations are authorized if they comply with the performance standards set forth in Table 5.33-1.

5.33.3 UNSAFE RURAL HOME OCCUPATIONS.

If any rural home occupation has become dangerous or unsafe, or presents a safety hazard to the public, pedestrians on public sidewalks or motorists on public right-of-way, or presents a safety hazard to adjacent or nearby properties, residents or businesses, the Administrator shall issue an order to the dwelling owner and/or tenant on the property on which the rural home occupation is being undertaken directing that the rural home occupation immediately be made safe or be terminated. The property owner and/or tenant shall be responsible for taking the necessary corrective steps or measures. In the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period of time, the Administrator may take any and all available enforcement actions to render the rural home occupation and dwelling safe. Costs incurred by the Administrator, if forced to take enforcement actions, shall be borne by the property owner and shall be treated as a zoning violation pursuant to § 1.6 of this Ordinance.

5.33.4 EXPIRATION OF RURAL HOME OCCUPATION PERMIT.

The Rural Home Occupation Permit shall lapse automatically if the property is used for non-residential purposes, if the dwelling is sold or rented, or if the home occupation is discontinued for a period of 180 days or more and is not renewed within thirty (30) days after written notice from the Administrator.

(1)Table 5.33-1
Rural Home Occupation Performance Standards

PERFORMANCE STANDARDS
Minimum lot size: 2 acres
One rural home occupation shall be permitted per lot.
The use shall be clearly incidental and secondary to residential occupancy.
The rural home occupation may take place in either the principal dwelling or an accessory structure. If the rural home occupation is located in an accessory structure, the structure shall meet the principal structure setbacks for the zoning district.
Not more than 25% of the gross floor area of the principal dwelling structure may be utilized as a part of the rural home occupation.
Accessory buildings utilized for rural home occupations shall not exceed the square footage of the principal structure.
The rural home occupation shall cause no change to the residential character and appearance of the land, buildings, or structures.
The use shall conform to applicable state and local statutes, ordinances and regulations and is reviewed by Administrator.
A full-time resident operator shall be employed.
All permits and licenses must be acquired before operating a rural home occupation.
No more than three (3) non-resident employees shall be permitted.
Client visits to the rural home occupation shall be between 8:00 a.m. and 8:00 p.m.
The operator shall demonstrate that public facilities are adequate to safely accommodate equipment used for the rural home occupation
No outside storage of materials or equipment shall be allowed in connection with the rural home occupation.
Parking shall be provided only in driveway and shall not create hazards or street congestion
Outside storage of heavy equipment or material shall be prohibited.
Rural home occupations shall be limited to office and service uses inside a fully enclosed building. No wholesale or retail sales of goods shall be permitted.

5.34 ⁽¹⁾FORESTRY ACTIVITIES

5.34.1 APPLICABILITY.

The provisions of this Section shall apply to any Forestry Activity as allowed by Table 4.6-1 (see Article 4) and subject to the provision below.

5.34.2 DEFINITIONS

Forest Management Plan – A document that defines a landowner's forest management objectives and describes specific measures to be taken to achieve those objectives. A forest management plan shall include silvicultural practices that both ensure optimal forest productivity and environmental protection of land by either commercially growing timber through the establishment of forest stands or ensuring the proper regeneration of forest stands to commercial levels of production after the harvest of timber.

Forestland – Land that is devoted to growing trees for the production of timber, wood, and other forest products.

Forestry – The professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.

Forestry Activity – Any activity associated with the growing, managing, harvesting, and related transportation, reforestation, or protection of trees and timber, provided that such activities comply with existing State rules and regulations pertaining to forestry.

5.34.3 APPROVAL CRITERIA

No permit shall be issued for Forestry Activities unless one of the following criteria is met:

5.34.3.1 The forestry activity is conducted on forestland that is taxed on the basis of its present-use value as forestland under Chapter 105, Article 12 of the North Carolina General Statutes.

5.34.3.2 The forestry activity is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the North Carolina General Statutes.

5.35 ⁽¹⁾BOARDING HOUSES

5.35.1 LOCATION

5.35.1.1 Boarding houses shall only be established in accordance with Table 4.6-1.

5.35.2 STRUCTURE

A structure which shall be used for a boarding house shall not be constructed or altered in any way that changes its general residential appearance.

5.35.3 APPROVAL CRITERIA

5.35.3.1 Off-street Parking. See Table 8.1-6.

5.35.3.2 Reception/Private Parties. No receptions, private parties or similar activities shall be permitted unless expressly approved as part of the Conditional Use Permit or Site Plan application.

5.35.3.3 Guest Rooms. All guest rooms shall be located within the principal structure.

5.35.3.4 Meals. Other than registered tenants and their guests, no meals shall be served to the general public unless expressly approved as part of the Conditional Use Permit or Site Plan application.

5.35.3.5 Area Regulations. Area regulations for minimum lot size, applicable setbacks, building height and other dimensional requirements for new construction shall be governed by the zoning district in which the property is located.

5.35.3.6 Maximum Number of Guest Units. The maximum number of guest bedrooms for each proposed boarding house shall be five (5), unless the applicant can demonstrate that the original floor plan of the structure contained a larger number of bedrooms, in which case the original number of bedrooms may be approved as allowable guest lodging.

5.30.4 LANDSCAPING AND BUFFERING.

5.30.4.1 See Article 7.

5.30.5 LIGHTING

5.30.5.1 All outdoor lights must be shielded to direct light and glare only onto the facility's premises and may be of sufficient intensity to discourage vandalism and theft. Lighting and glare

must be deflected, shaded and focused away from any adjoining residential property.

5.35.6 SIGNAGE

5.35.6.1 Signs for boarding houses shall meet the requirements of the Sign Regulations and the requirements set forth below.

5.35.6.2 Signage shall be limited to one ground sign per establishment.

5.35.6.3 Ground signs identifying the boarding house shall not exceed five (5) square feet in area nor five (5) feet in height. Such signs shall not be illuminated.

5.35.6.4 No additional advertising signs shall be permitted on the property.